

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Michael Nash, Co-chairs
Michael A. Fischer, Committee Co-counsel
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DATE: March 14, 2003

SUBJECT: Family Law: Limited Scope Representation (adopt Cal. Rules of Court, rules 5.170 and 5.171; adopt form FL-950 and approve forms FL-955, FL-956 and FL-958) (Action Required)

Issue Statement

Family law courts serve increasing numbers of litigants who represent themselves in court. Many of these litigants would like the assistance of an attorney for parts of their cases even if they cannot afford full representation. At the request of the State Bar, the California Commission on Access to Justice prepared the *Report on Limited Scope Legal Assistance with Initial Recommendations*, which made a number of recommendations aimed at encouraging attorneys to provide limited scope representation. The Board of Governors of the State Bar has adopted these recommendations, which include asking the Judicial Council to develop rules and forms to enable limited scope representation so that attorneys can assist self-represented litigants, thereby increasing access to justice and encouraging court efficiency.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2003, adopt rules 5.170 and 5.171 of the California Rules of Court; adopt form FL-950; and approve forms FL-955, FL-956 and FL-958 to facilitate attorneys providing limited scope representation in family law courts.

The proposed rules and forms are attached at pages 9–20.

Rationale for Recommendation

Limited scope representation is a relationship between an attorney and a person seeking legal services in which it is agreed that the scope of the legal services will be limited to specific tasks that the person asks the attorney to perform. This is also

called “unbundling” and “discrete task representation.” This issue is of concern to the judiciary as it faces increasing numbers of self-represented litigants at a time of reduced funding. Reports from courts indicate that as many as 80 percent of the litigants in family law matters are self-represented.

At the request of the president of the State Bar of California, the Commission on Access to Justice established a Limited Representation Committee. The committee was composed of representatives from the private bar and the judiciary, legal ethics specialists, and legal services representatives. Their work was informed by legal research and discussion as well as by a series of focus groups that included private attorneys, judicial officers, legal services representatives, insurance company representatives, lawyer referral service representatives, litigants, family law facilitators, and legal ethics specialists. Focus groups and individual interviews were also conducted with current and potential users of limited scope services.

In October 2001 the committee issued a *Report on Limited Scope Legal Assistance With Initial Recommendations*. The Board of Governors of the State Bar of California approved those initial recommendations on July 28, 2001. Some of the recommendations, categorized by the committee as “court-related,” called for the committee to work with the Judicial Council to adopt rules and forms.

Limited scope representation helps self-represented litigants:

- Prepare their documents legibly, completely, and accurately;
- Prepare their cases based on a better understanding of the law and court procedures than they would if left on their own;
- Obtain representation for portions of their cases, such as court hearings, even if they cannot afford full representation; and
- Obtain assistance in preparing, understanding, and enforcing court orders.

This assistance can reduce the number of errors in documents; limit the time wasted by the court, litigants, and opposing attorneys because of the procedural difficulties and mistakes of self-represented litigants; and decrease docket congestion and demands on court personnel. In focus groups on this topic, judges indicated a strong interest in having self-represented litigants obtain as much information and assistance from attorneys as possible. They pointed to the California courts’ positive experience with self-help programs such as the family law facilitator program, which educates litigants and assists them with paperwork. These programs, however, cannot meet the needs of all self-represented litigants and, because of existing regulations, must limit the services they can offer.

The proposed forms and rules are designed to help facilitate attorneys providing this assistance as called for in the report of the Limited Representation Committee:

- A rule of court that would allow attorneys to help litigants prepare

- pleadings without disclosing that they assisted the litigants (unless they appear as attorneys of record or seek the award of attorney fees based on such work);
- A form to be filed with the court clarifying the scope of representation when the attorney and client have contracted for limited-scope legal assistance; and
- A simplified notice of withdrawal for cases when an attorney is providing limited scope assistance.

Rule 5.170, Nondisclosure of attorney assistance in preparation of court documents

The proposed rule provides that an attorney may assist in the preparation of family law pleadings without disclosure if he or she is not the attorney of record. Limiting the scope of representation to the preparation of family law pleadings is a widespread practice in California. Currently, there is no California statute or rule that expressly permits or prohibits attorneys' assistance of clients in the preparation of pleadings or other documents to be filed without disclosing their role to the court.

Some courts in other jurisdictions have expressed concern that providing anonymous assistance to a self-represented litigant defrauds the court by implying that the litigant has had no attorney assistance. The concern is that this might lead to special treatment for the litigant or allow the attorney to evade the court's authority. However, California's family law courts have allowed ghostwriting for many years. Family law facilitators, domestic violence advocates, family law clinics, law school clinics, and other programs and private attorneys serving low-income persons often draft pleadings on behalf of litigants.

Judicial officers in the focus groups reported that it is generally possible to determine from the appearance of a pleading whether an attorney was involved in drafting it. They also reported that the benefits of having documents prepared by an attorney are substantial.

In focus groups, private attorneys who draft pleadings on behalf of their clients revealed that they would be much less willing to provide this service if they had to put their names on the pleadings. Their reasons included:

- Fear of increased liability;
- Worry that a judicial officer might make them appear in court despite a contractual arrangement with the client limiting the scope of representation;
- Belief that they are helping the client tell his or her story, and that the client has a right to say things that attorneys would not include if they were directing the case;
- Concern that the client might change the pleading between leaving the attorney's office and filing the pleading in court;
- Apprehension that their reputation might be damaged by a client's inartful or inappropriate arguing of a motion;

- Concern that they would be violating the client's right to a confidential relationship with his or her attorney; and
- Worry that they may not be able to verify the accuracy of all the statements in the pleading, given the short time available with the client.

It does not appear that the filing of ghostwritten documents deprives the court of the ability to hold a party responsible for filing frivolous, misleading, or deceptive pleadings. A self-represented litigant makes representations to the court by filing a pleading or other document about the accuracy and appropriateness of those pleadings. (Code Civ. Proc., §128.7(b).) In the event that a court finds that section 128.7(b) of the Code of Civil Procedure has been violated, the court may sanction the self-represented litigant. The court could also inquire of the litigant who assisted in preparation of the pleading and lodge a complaint with the State Bar about the attorney's participation in the preparation of a frivolous or misleading document, whether or not his or her name is on the pleading. (See Los Angeles County Bar Association, Formal Opinion 502, November 4, 1999.) Given that the current practice is to not require ghostwriters to disclose their participation in a case and no widespread problems have been noted, there seems to be no reason to adopt a rule requiring disclosure of the drafter's identity in every case. Such a rule would likely discourage access to the courts, leave more litigants without attorney assistance in the drafting of pleadings, require more courts to decipher pleadings by unassisted self-represented litigants, and cause continuances to allow time for filing and service of correct and complete pleadings.

Under the proposed rule, an attorney providing limited scope representation must disclose his or her involvement if the litigant is requesting attorney fees to pay for those services, so that the court and opposing counsel can determine the appropriate fees. Awarding attorney fees when a litigant receives assistance with paperwork or preparations for a hearing may also help encourage attorneys to provide this service. Family Code section 2032 states that the court "shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately." The only counsel many litigants can afford, even with attorney fees awards, is counsel willing to provide limited scope legal services. If a litigant were able to present a case "adequately" through coaching or assistance with preparation of a pleading, an award of fees might also be appropriate.

Rule 5.171, Application to be relieved as counsel upon completion of limited scope representation

This new rule clarifies that attorneys who have completed the tasks specified in an agreement with a client for limited scope representation may use either the procedure set forth in rule 376 or forms FL-955, FL-956, and FL-958 to request that they be relieved as counsel in cases where they have appeared before the court as attorney of record and the client has not signed a *Substitution of Attorney-Civil* (form MC-050).

Notice of Limited Scope Representation (new form FL-950)

One of the key attorney services desired by the self-represented litigants in focus groups was the argument of a motion or trial in court. This service is generally in the best interest of the judiciary, since attorneys are aware of local rules and procedures, rules of evidence, and the scope of legally relevant issues. Counsel can give judicial officers a clear presentation of the case, saving significant court resources.

However, this is an area in which attorneys often are cautious about providing limited scope services. Lawyers need certainty that the courts will abide by the limitations contained in the retainer agreement. In general, while the court may prefer that an attorney represent a litigant for the entire case, the court's desire for more litigants to be represented in court proceedings can effectively be fulfilled by allowing limited scope services.

Form FL-950 is intended to clarify to the court and other parties that an attorney is making an appearance for a limited issue or for only one hearing. The form would provide notice to the court and the other party and would ensure a clear understanding between the client and lawyer regarding the scope of the service. It would also inform clerks and opposing counsel who the attorney of record is and to whom notice should be sent for various stages of a case.

Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation (new form FL-955)

This form is designed to provide the court and opposing party notice when the limited scope of the representation has been terminated if form MC-050 *Substitution of Attorney-Civil* is not completed. It also provides notice to a litigant that the attorney believes that the representation is completed so that the litigant has the ability to respond if he or she believes that the representation is not completed.

This form is designed to meet the requirements of Code of Civil Procedure section 284, which requires that if the consent of the client and attorney is not filed with the clerk or entered upon the minutes then application must be made to the court by either the attorney or the client, after notice from one to the other, and the court must make an order.

This proposed form and procedure to be relieved as counsel upon completion of limited scope representation are somewhat simpler than those procedures set forth in rule 376 of the California Rules of Court due to the different nature of the relationship between the attorney and client in a limited scope representation arrangement. Warning language contained in the forms for limited scope representation has been simplified and designed to be more reflective of family law proceedings.

Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation (new form FL-956)

This new form has been developed to allow a party who does not believe that his or her attorney has completed the tasks contracted for to file an objection with the court and request that the attorney not be relieved as counsel. This form provides space for a hearing date to be set by the clerk.

Order On Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation (new form FL-958)

This new form was developed to meet the requirements of Code of Civil Procedure section 284 and provide a clear record for the court and all parties to the litigation that the attorney providing limited scope representation is relieved as counsel in cases where a *Substitution of Attorney–Civil* (form MC-050) has not been filed.

Alternative Actions Considered

The Judicial Council could choose not to take any action. Ghostwritten pleadings would still be allowed, since there is no prohibition by statute or rule. However, it appears that many reputable attorneys would be reluctant to assist litigants in preparing pleadings without the council's clarification of this established practice. Attorneys might make appearances on limited issues before the court, but there would be no form or mechanism to alert the court that the appearance was for a limited purpose and no way to ascertain the clients' awareness of the limited scope of representation. Fewer attorneys would be likely to provide limited representation to clients, precluding clients from receiving much-needed assistance and the courts from receiving the benefit of an attorney-argued motion.

Comments From Interested Parties

A version of these proposed rules and forms was circulated in spring 2002. The comments were generally very positive, but a number of suggestions were made to improve the forms. Given the significance of the changes and the importance of this initiative, this proposal was recirculated for comment. Two additional forms and an additional rule regarding withdrawal of counsel have been developed based upon the comments received.

This new invitation to comment was circulated to the Administrative Office of the Courts' main mailing list of presiding judges and executive officers, the State Bar, and other groups interested in the administration of justice. In addition, it was circulated to all family law facilitators, family law information centers, child support commissioners, and legal services programs, as well as the Family and Juvenile Law Advisory Committee's list of family law practitioners. Thirty-two written comments were received. The comment chart is attached at pages 21–45.

Ten of the 32 commenters approved of the proposed rules and forms as circulated, with no changes required. Many applauded the Judicial Council on its commitment to increasing meaningful access to the court for litigants who are generally unrepresented.

Twenty commenters approved of the proposal and suggested ways to make the forms clearer, including adding a proof of service to the objection, allowing multiple parties to be listed on a proof of service, and putting some warnings to the client in bold to help them stand out.

One commenter took no position. Another commenter, the Orange County Bar Association, opposed the entire proposal, stating that it does not support the concept of limited scope representation. However, the rules and forms committee of the Superior Court of Orange County suggested that the forms and rules be approved as they would “formalize procedures our court has put into place.”

Five commenters responded specifically to the question of whether the court should retain the authority to require attorneys to remain attorneys of record beyond the scope of the agreement for limited scope representation. All of them responded negatively to that suggestion. The committee agrees that it is not appropriate for the court to violate the express agreement between the attorney and client regarding the scope of representation and that clients and courts would not receive the benefit of attorneys arguing parts of the case if the attorneys were uncertain whether they would be relieved as counsel.

There were a number of concerns raised about the proposed procedure for withdrawal by attorneys upon completion of limited scope representation if the client has not signed a substitution of attorney form as agreed. Those issues included how to track the request in the clerk’s office, who sends the notice of hearing, and concerns by attorneys that the process was too cumbersome. The committee recommends that the proposed process be amended to eliminate the clerk’s responsibility of calendaring the request for withdrawal and instead, require the attorney to resubmit the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955) after the waiting period. As the attorney is primarily interested in being relieved as counsel and this procedure can be accomplished by mail, this seemed a better option than placing the responsibility on the court clerk.

As previously noted, the Board of Governors of the State Bar of California approved the recommendations to develop these rules and forms. The State Bar’s Standing Committee on the Delivery of Legal Services supported the proposal as submitted. The State Bar’s Committee on Professional Responsibility provided significant support and informal comments prior to circulation of the proposal.

Some courts have included in their local strategic plans the development of panels of attorneys willing to provide limited scope representation. Some are already piloting the proposed forms.

Implementation Requirements and Costs

The use of the new forms would involve printing costs. Training on issues such as courtroom management in cases when attorneys are providing limited scope representation is already contemplated in the training for family law judicial officers. The State Bar is developing trainings for attorneys regarding ethical and effective limited scope representation. A workshop on limited scope representation will be offered at its annual meeting in September.

Attachments

Rules 5.170 and 5.171 of the California Rules of Court are adopted, effective July 1, 2003, to read:

Rule 5.170. Nondisclosure of attorney assistance in preparation of court documents

- (a) **[Nondisclosure]** In a family law proceeding, an attorney who contracts with a client to draft or assist in drafting legal documents, but not to make an appearance in the case, is not required to disclose within the text of the document that he or she was involved in preparing the documents.
- (b) **[Attorney fees]** If a litigant seeks a court order for attorney fees incurred as a result of document preparation, the litigant must disclose to the court information required for a proper determination of attorney fees—including the name of the attorney who assisted in the preparation of the documents, the time involved or other basis for billing, the tasks performed, and the amount billed.
- (c) **[Applicability]** This rule does not apply to an attorney who has made a general appearance or has contracted with his or her client to make an appearance on any issue that is the subject of the pleadings.

Rule 5.171. Application to be relieved as counsel upon completion of limited scope representation

- (a) **[Applicability of this rule]** Notwithstanding rule 376, an attorney who has completed the tasks specified in the *Notice of Limited Scope Representation* (form FL-950) may use the procedure in this rule to request that the attorney be relieved as counsel in cases in which the attorney has appeared before the court as attorney of record and the client has not signed a *Substitution of Attorney–Civil* (form MC-050).
- (b) **[Notice]** An application to be relieved as counsel upon completion of limited scope representation under Code of Civil Procedure section 284(2) must be directed to the client and made on the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955).
- (c) **[Service]** The application must be filed with the court and served on the client and on all other parties and counsel who are of record in the case. The client must also be served with form FL-956, *Objection to Application to be Relieved as Counsel Upon Completion of Limited Scope Representation*.

- 1 (d) **[No Objection]** If no objection is filed within 15 days from the date that the
2 Application to Be Relieved as Counsel Upon Completion of Limited Scope
3 Representation (form FL-955) is served upon the client, the attorney making
4 the application must file an updated form FL-955 indicating the lack of
5 objection, along with a proposed Order on Application to Be Relieved as
6 Counsel Upon Completion of Limited Scope Representation (form FL-958).
7 The clerk will then forward the file with the proposed order for judicial
8 signature.
9
- 10 (e) **[Objection]** If an objection is filed within 15 days, the clerk must set a
11 hearing date on the Objection to Application to be Relieved as Counsel Upon
12 Completion of Limited Scope Representation (form FL-956). The hearing
13 must be scheduled no later than 25 days from the date the objection is filed.
14 The clerk must send the notice of the hearing to the parties and counsel.
15
- 16 (f) **[Service of the order]** After the order is signed, a copy of the signed order
17 must be served by the attorney who has filed the Application to Be Relieved as
18 Counsel Upon Completion of Limited Scope Representation (form FL-955)
19 on the client and on all parties who have appeared in the case. The court may
20 delay the effective date of the order relieving counsel until proof of service of
21 a copy of the signed order on the client has been filed with the court.
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ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY <h1 style="text-align: center;">DRAFT 5</h1> <h2 style="text-align: center;">4/1/03</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITIONER/PLAINTIFF: _____ RESPONDENT/DEFENDANT: _____ OTHER PARENT/CLAIMANT: _____	
NOTICE OF LIMITED SCOPE REPRESENTATION <input type="checkbox"/> Amended	CASE NUMBER: _____

1. Attorney (*name*): _____
 and party (*name*): _____
 have a written agreement that attorney will provide limited scope representation to the party.

2. Attorney will represent the party
☐ at the hearing on: _____ ☐ and for any continuance of that hearing
☐ until submission of the order after hearing
☐ until resolution of the issues checked on page 1 by trial or settlement
☐ other (*specify duration of representation*): _____

3. Attorney will serve as "attorney of record" for the party **only** for the following issues in this case:
 - a. ☐ Child support: (1) ☐ Establish (2) ☐ Enforce (3) ☐ Modify (*describe in detail*): _____

 - b. ☐ Spousal support: (1) ☐ Establish (2) ☐ Enforce (3) ☐ Modify (*describe in detail*): _____

 - c. ☐ Restraining order: (1) ☐ Establish (2) ☐ Enforce (3) ☐ Modify (*describe in detail*): _____

 - d. ☐ Child custody and visitation: (1) ☐ Establish (2) ☐ Enforce (3) ☐ Modify (*describe in detail*): _____

 - e. ☐ Division of property (*describe in detail*): _____

 - f. ☐ Pension issues (*describe in detail*): _____

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
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g. ☐ Contempt (*describe in detail*):

h. ☐ Other (*describe in detail*):

i. ☐ See attachment 3i.

4. By signing this form, the party agrees to sign form MC-050, *Substitution of Attorney-Civil* at the completion of the representation as set forth above.

5. The attorney named above is "attorney of record" and available for service of documents only for those issues specifically checked on pages 1 and 2. For all other matters, the party must be served directly. The party's name, address, and phone number are listed below for that purpose.

Name:

Address (*for the purpose of service*):

Phone:

Fax:

This notice accurately sets forth all current matters on which the attorney has agreed to serve as "attorney of record" for the party in this case. The information provided herein is not intended to set forth all of the terms and conditions of the agreement between the party and the attorney for limited scope representation.

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY)



(SIGNATURE OF ATTORNEY)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
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PROOF OF SERVICE BY ☐ PERSONAL SERVICE ☐ MAIL

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Notice of Limited Scope Representation* as follows (check either a. or b. below):
 - a. ☐ **Personal service.** The *Notice of Limited Scope Representation* was given to:
 - (1) Name of person served:
 - (2) Address where served:
 - (3) Date served:
 - (4) Time served:
 - b. ☐ **Mail.** I placed a copy of the *Notice of Limited Scope Representation* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
 - (1) Name of person served:
 - (2) Address:
 - (3) Date of mailing:
 - (4) Place of mailing (*city and state*):
 - (5) I live in or work in the county where the *Notice* was mailed.
3. Server's information:
 - a. Name:
 - b. Home or work address:
 - c. Telephone number:

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PERSON SERVING NOTICE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.:</div> <div>FAX NO. (Optional):</div> </div> ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold;">DRAFT 7</div> <div style="font-size: 2em; font-weight: bold;">4/2/03</div>
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
APPLICATION TO BE RELIEVED AS COUNSEL UPON COMPLETION OF LIMITED SCOPE REPRESENTATION	

1. I request an order to be relieved as counsel in this matter.

2. In accordance with the terms of an agreement between (name): ☐ petitioner ☐ respondent
☐ other parent/claimant and myself, I agreed to provide limited scope representation.

3. I was retained as attorney of record for the following limited scope services (describe in detail):

☐ see *Notice of Limited Scope Representation* (form FL-950).

4. I have completed all services within the scope of my representation and have completed all acts ordered by the court.

5. The last known address for the ☐ petitioner ☐ respondent ☐ other parent/claimant is:

6. The last known telephone number for the ☐ petitioner ☐ respondent ☐ other parent/claimant is:

NOTICE TO PARTY/CLIENT: Your attorney has filed this *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* with the court stating that he or she no longer represents you in this action because the tasks that you agreed the attorney would perform for you have been completed.

If you do not agree that these tasks have been completed and you want the attorney to continue to represent you until the tasks are completed, you must file an *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956) with the court within 15 calendar days of the date that this notice was served on you, asking the court to require the attorney to remain your attorney in the action until these tasks are completed. You must also serve this *Objection* on your attorney and the other party. If you do not file a form FL-956, the court will grant your attorney's request.

Please refer to the *Proof of Service* on page 2 of this form to determine the date that this notice was served on you (if this form was served by mail, the date of service is 5 days after the date of mailing).

This procedure may be used **ONLY** if you believe that the attorney has not completed the tasks that he or she agreed to perform for you. It is **NOT** to be used to resolve other disagreements you may have with the attorney, such as disagreements concerning fees.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
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PROOF OF SERVICE BY ☐ PERSONAL SERVICE ☐ MAIL

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the completed *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* and all attachments as well as a blank *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* as follows (check either a. or b. below):
 - a. ☐ **Personal service.** I personally delivered the forms listed above and any attachments as follows:
 - (1) Name of person served:
 - (2) Address where served:
 - (3) Date served:
 - (4) Time served:
 - b. ☐ **Mail.** I placed copies of the forms listed above in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
 - (1) Name of person served:
 - (2) Address:
 - (3) Date of mailing:
 - (4) Place of mailing (*city and state*):
 - (5) I live in or work in the county where the forms were mailed.
3. Server's information:
 - a. Name:
 - b. Home or work address:
 - c. Telephone number:

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> (TYPE OR PRINT SERVER'S NAME)		<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> (SERVER TO SIGN HERE)
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1. I am the ☐ petitioner/plaintiff ☐ respondent/defendant ☐ other parent/claimant in this case.
2. I do not believe that all the services that my attorney agreed to do for me are completed.
3. I request that the court not allow my attorney to withdraw from representation until those services have been completed.
The services that were agreed upon that remain to be completed are (*specify*):

NOTICE

Date: _____

(SIGNATURE)

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT/CLAIMANT:	


PROOF OF SERVICE BY ☐ PERSONAL SERVICE ☐ MAIL

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the completed *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* as follows (check either a. or b. below):
 - a. ☐ **Personal service.** I personally delivered the forms and any attachments as follows:
 - (1) Name of person served:
 - (2) Address where served:
 - (3) Date served:
 - (4) Time served:
 - b. ☐ **Mail.** I deposited the forms and any attachments in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
 - (1) Name of person served:
 - (2) Address:
 - (3) Date of mailing:
 - (4) Place of mailing (*city and state*):
 - (5) I am a resident of or employed in the county where the forms were mailed.
 - c. My residence or business address is (*specify*):
 - d. My phone number is (*specify*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



 (SIGNATURE OF PERSON SERVING NOTICE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY <h2 style="text-align: center;">Draft - 6 4/2/03</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLANTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMAINT:	
ORDER ON APPLICATION TO BE RELIEVED AS COUNSEL UPON COMPLETION OF LIMITED SCOPE REPRESENTATION	CASE NUMBER(S):

1. The application of (*name of attorney*):
to be relieved as counsel of record for (*name of client*):
a party to this action or proceeding, was filed on (*specify date*):

2. ☐ **UNCONTESTED**
 - a. Fifteen calendar days have elapsed since the *Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-955) and any attachments were served on the party.
 - b. The client was
 - (1) ☐ personally served with the papers.
 - (2) ☐ served by mail.
 - c. No *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956) has been received from the client.
 - d. It appears from the application to be relieved as counsel and any attached documents that the attorney has completed the tasks that the client and attorney agreed that the attorney would perform as well as any acts ordered by the court.

3. ☐ **CONTESTED**
 - a. The party filed an *Objection to Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956) on (*date*):
 - b. The proceeding was heard on (*date*): _____ at (*time*): _____ in Dept.: _____ Room: _____
by Judge (*name*): _____ ☐ Temporary Judge
 - c. The following persons were present at the hearing:

<input type="checkbox"/> Petitioner/plaintiff	<input type="checkbox"/> Attorney for petitioner/plaintiff
<input type="checkbox"/> Respondent/defendant	<input type="checkbox"/> Attorney for respondent/defendant
<input type="checkbox"/> Other parent/claimant	<input type="checkbox"/> Attorney for other parent/claimant
 - d. ☐ Attorney demonstrated that he or she has completed the service that the party and attorney agreed that the attorney would perform on the *Notice of Limited Scope Representation* (form FL-950) as well as any acts ordered by the court.

PETITIONER/PLANTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/CLAIMAINT:	CASE NUMBER(S):
--	-----------------

ORDER

4. ☐ Attorney is relieved as attorney of record for client:
- a. ☐ effective immediately
 - b. ☐ effective upon the filing of the proof of service of this signed order upon the client
 - c. ☐ effective on *(specify date)*:
 - d. **NOTICE TO CLIENT/PARTY:** You now represent yourself in all aspects of your case. You may wish to seek other legal counsel regarding your case.

 The court needs to know how to contact you. It is your responsibility to keep the court informed of your address. If the address below is wrong, you need to let the court and the other parties of the case know your correct mailing address as soon as possible. You can use form MC-040, *Notice of Change of Address and Telephone Number*, for this notification.

 If you do not let the court and the other parties to the case know where to send you copies of papers, you may not get notices of hearings or orders in your case. Decisions may be made without your participation, and your case could be ended.
 - e. Current mailing address for client/party:
5. ☐ The application of counsel to be relieved upon completion of limited scope representation is denied for the following reasons:
6. ☐ The court further orders *(specify)*:

NOTICE TO ATTORNEY WHO FILED APPLICATION FOR RELIEF: You must serve copies of the order on the parties and opposing counsel. Proof of service must be filed with the court.

Date:



(JUDGE/JUDICIAL OFFICER)

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Barbara Fennell, Esq. Family Law Facilitator Superior Court of Monterey County	A	N	Nicely done.	No response required.
2.	Ms. Sandy Almansa Supervising Legal Clerk II Superior Court of Stanislaus County	AM	N	<p>FL-950 changes suggested:</p> <ul style="list-style-type: none"> - #2 reads: Attorney will serve as “attorney of record for the party only for the following issues in this case. (The word “only” should be in bold type) - #3, line 2: “At hearing on:” (Insert an underline and make area for hearing date wider. Example: At hearing on:_____) - #4 should be in bold type. <p>FL-955 changes suggested:</p> <ul style="list-style-type: none"> - First paragraph after #6 – “NOTICE OF CLIENT” should be bold type - Second paragraph – “If you do not agree...” this entire paragraph should be in bold type. - Fourth paragraph, line 1 – “This procedure...” This line should also be in bold type. <p>FL-956 change suggested:</p> <ul style="list-style-type: none"> - Add a number 5. “5. Attachment” 	<p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Will try to accomplish the objective of making it stand out without putting so much bold in that it loses its impact.</p> <p>Agree</p>
3.	Ms. Claudia Archer Program Manager Family Law, Probate, Adoption and Juvenile Divisions Superior Court of Solano County	AM	Y	<p>These are very clear and easy to understand.</p> <p>FL-950: On page 3, there are two Item 2’s, under “a”: I think the second “2” should be a “3”. Again on Page 3, next to the first “2”, under “a”: I think the word “gave” should be “given”.</p> <p>FL-956:</p>	<p>No response required.</p> <p>Agree</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Shouldn't there be a Proof of Service for the objector to complete? The Proof of Service could be printed on the back of Page 1... If there's no Proof of Service, the objector will probably not bother to mail a copy to the attorney who assisted him/her – and the attorney would have no idea there was an objection to his/her being relieved on file with the Court.</p> <p>FL-958: I would suggest that Item 2c have the words “or filed with the Court” added to the end of the sentence. The sentence would then read, “No Objection to Application to be Relieved as Counsel Upon Completion of Limited Scope Representation has been received from the client <u>or filed with the Court.</u>”</p>	<p>Agree</p> <p>Disagree. The attorney may not know what has been filed with the court. If a document has been filed, it should be apparent to the court when the file is sent for signature.</p>
4.	Hon. Ronald L. Bauer Orange Co. Rules and Forms Committee Superior Court of Orange County	A	Y	The rules and forms committee of Orange County Superior Court reviewed the proposed rules and forms at their meeting of January 23, 2003 and agree with the proposed changes. The members would like to note their appreciation of the proposed forms which would formalize procedures our court has put into place.	No response required.
5.	Hon. Kathleen Bryan Commissioner and Chair of Family Law Committee Superior Court of San Bernardino County	A	N		No response required.
6.	Ms. Caron A. Caines Supervising Attorney Los Angeles Neighborhood Legal Services	AM	Y	Neighborhood Legal Services of Los Angeles County (NLS) applauds the efforts of the Judicial Council for spearheading the movement to facilitate the provision of discrete task representation. We believe that the	No response required.

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>proposed changes will benefit low-income individuals in two ways. First, more attorneys will be willing to provide pro bono services since they will be able to specifically limit their assistance and second, legal aid attorneys can be more strategic, focusing on the most compelling aspects of the case, without the risk of being forced to take on a part of the case that the client is able to handle. Strategic representation will enable legal service providers to maximize their limited resources.”</p> <p>“The idea of limiting the scope of assistance provided to clients has been one long embraced by the legal services community. Providers of legal services to the poor have “unbundled” services for years. It has been the product of limited resources combined with an overwhelming need by poor people for legal assistance. Without sacrificing quality, legal aid offices have been forced to develop creative intake mechanisms and service delivery systems in order to stretch scarce resources. Client hotlines, domestic violence clinics, and self-help centers, the most limited legal assistance of all, have been developed in response to the tremendous need for assistance.”</p> <p>“Moreover, the proposed changes will help those who do not qualify for legal aid, yet could not afford an attorney to represent them through an entire case. Attorneys can be used tactically, only when absolutely necessary.”</p>	<p>No response required.</p> <p>No response required.</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>FL-950 The caption, “Other Parent” should be changed to Other Parent/Claimant as this form should also apply to third parties on the case.</p> <p>Paragraph 1: Attorney: and party should read Attorney: and party/claimant.”</p> <p>Paragraph 3: Add the box “Until Judgment is entered by the court” as many times the attorneys fail to prepare or submit a Judgment after trial or settlement. Litigants are usually ignorant of the final steps that are necessary to complete their case.</p> <p>Form FL-955: on the caption, change “Application and Order” to Application for Order as this form is an application only, and there are no orders within this form for the court to sign. The hearing date, time and department information are missing.</p> <p>Form FL-956. A Proof of Service similar to the one on Form FL-955 should be added to this form.</p> <p>Form FL-958 – This form looks good.</p>	<p>Agree.</p> <p>Agree.</p> <p>Agree to add box, but will also provide option “until judgment is submitted to the court” as that may take a number of months in a default matter.</p> <p>Agree with change of name. Procedure is designed so that there is only a hearing if the other party objects, so that’s only on the notice of objection.</p> <p>Agree</p> <p>No response required</p>
7.	Hon. Dolores Carr Supervising Judge of the Family Division Superior Court of Santa Clara County	A	N	<p>“These changes will be very helpful to the vast majority of litigants in family court, who are self-represented. They spend inordinate amounts of time trying to handle their cases at minimal cost, and still flounder even with the assistance of the facilitator,</p>	No response required.

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

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				self-help clinic, etc.”	
8.	Ms. Bettie Carter, Supervising Legal Clerk, Family Law Superior Court of Stanislaus County	A	N	“I think ghostwritten documents is a good thing. It allows the self-represented litigant to receive expert assistance. This will also aid in getting their paperwork filed in a timely manner. And, as a working supervisor, I like that idea.”	No response required.
9.	Mr. Raymond Coates President California Defense Counsel	No position	N	No position.	No response required.
10.	Hon. Roderic Duncan, Judge of the Superior Court, Retired	AM	N	<p>“I believe the proposal regarding limited scope representation is an important change in procedure to accommodate the enormous increase of family law litigants who cannot afford to be represented by an attorney for all purposes. The proposal will encourage lawyers concerned about liability to accept a limited assignment in a case. It will provide an important service to a litigant who needs assistance in presenting a complex issue to the court. It will aid courts in obtaining the information required to make a just resolution of a pending issue.”</p> <p>“I do not believe courts should retain the authority to require attorneys to remain in a case after their limited assignment has been completed. Such a requirement will cause some attorneys to refuse to undertake these assignments.”</p> <p>“I think form FL-956 is unnecessary and only serves to clog the system with yet another form that will not be used.”</p>	<p>No response required.</p> <p>Agree</p> <p>Since the persons objecting to the request for withdrawal will be self-represented, it seems inequitable not to provide a clear</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				I endorse proposed rule 5-170 because it will provide further inducement to attorneys to participate in limited assignments.	procedure for them to use, including a form. No response required
11.	Ms. Angie Gonzalez Supervising Legal Clerk I Superior Court of Stanislaus County	A	N		No response required.
12.	Ms. Keri Griffith Court Program Manager Superior Court of Ventura County	A	N	<p>Rule 5.171 (e) rule is vague as to setting hearing. It says “Court may...” set hearing but item 3a (FL-958) gives appearance that hearing required. Also, time frame for hearing to be held not stated. Hearing is to be set once Objection is filed. Clerks need to know the time frame for rescheduling and if hearing is always set when objection filed.</p> <p>Gives the Court the option to make the order effective upon filing of proof of service of the signed order. Court will have to track cases to see if proof of service is filed before removing attorney from case management system. Recommend that this provision be deleted in FL-958 and Rule 5.171 (e)</p> <p>FL-955: page 1, item 3; checkbox for attaching notice of limited scope representation needs to be moved down.</p>	<p>Agree. The rule has been modified to require that the hearing be set by the clerk within 25 days of the filing of the objection.</p> <p>Agree. The rule has been modified to put the responsibility of filing an updated Application and proposed Order Relieving Counsel Upon Completion of Limited Scope Representation on the attorney requesting relief rather than on the clerk.</p> <p>Agree.</p>
13.	Richard L. Haeussler Haeussler & Associates	AM	N	I believe the Title to FL-955 should be changed to: Application for Order to be Relieved etc., rather than Applications and Order etc.	Agree

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

Commentator	Position	Comment on behalf of group?	Comment	Committee Response
			<p>Rule 5.171(d) clearly states that the withdrawal Notice must be served on ‘ALL OTHER PARTIES AND COUNSEL’ but the form does not provide for space to do so. I would suggest that the form have such additional space either as an attachment or as space on the form in the form of “block” address spaces, with a designation of who was being served. For example:</p> <p style="padding-left: 40px;">Name Address City, State, Zip Code (designation of party: client, opposing attorney, joined party, etc.)</p> <p>I would also suggest that the proof of service include the language that a “blank FL-956 –Objection to Application and a Proposed Order Granting Attorney’s Motion was served with the Application either by mail or personal service as required by Rule 5.171(d) AND Rule 5.171(e)</p> <p>I applaud the fact that the Notice of Limited Scope Representation, FL-950, has the prospective client sign the form.</p> <p>Rule 5.171 (e) Who serves the hearing date notice if the court sets a hearing? The clerk or the party asking to be relieved or objecting to the application?</p> <p>Service of the order to be relieved should be by</p>	<p>Agree</p> <p>Agree</p> <p>No response required.</p> <p>The clerk will serve the hearing date notice.</p> <p>Agree.</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>personal service or by mail on the former client and all other parties.</p> <p>FL-955 should be modified to include some sort of notice to the client as to what additional hearing dates are pending or scheduled without regard to the fact that these hearings may not be within the Scope of Representation, if the attorney is aware of the hearing (ex: a. I am aware of no pending hearing in this matter. B. There is a hearing set for xx,xx on the subject of xxx)</p> <p>Will a court fee be charged for filing the Application to be Relieved? If a hearing is going to be required on the “Objection to Application to be Relieved as Counsel” who is going to pay the motion fee, if one is going to be charged?? And what is the fee to be? Shouldn’t the party asking for the hearing be charged the motion fee?? And should not this charge be disclosed in the form asking for the hearing?</p> <p>How will the court insure that a monolingual client understands that the attorney was making a limited scope appearance? I suggest that the attorney should disclose in his appearance if the retainer or other paper was negotiated in a language other than English. We have authority now which limits this requirement to Spanish (See Civil Code Section 1632(a)(5) for attorneys fee agreements) However this should be extended to any other language used, Korean, Chinese, etc. I would also suggest that the</p>	<p>Disagree. The attorney may not be aware of other hearings given the limited scope of representation and it may be misleading to the client if they answer that they are aware of no pending hearing.</p> <p>A regular motion fee will be charged with the Application.</p> <p>While the committee endorses the notion of informed consent of non English-speaking clients, it is reluctant to add such a clause to this form unless it is also added to the standard Substitution of Attorney (Civil) and Notice of Motion to Be Relieved as Counsel. The committee is not convinced that non-English speaking litigants are appropriate candidates for limited scope representation and is hesitant to make the</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>limited scope of appearance form should include a required statement to the effect that the client “does not speak English and that the scope of appearance agreement was made in the client’s native language (explained to the client in the client’s native language) which is: ____” (Spanish, Chinese etc.)</p> <p><i>Notice of Intent to Withdraw</i> “Based upon the present procedure in the rule, the attorney would send the client some sort of request to sign a substitution of attorney saying that the attorney has completed his limited scope of appearance tasks, and if the attorney receives no response, the attorney would file the Application to be relieved (FL-955).” “I suggest that the attorney give notice of intent to withdraw both in English and native language of the client, and in the event that the client disputes the attorney’s belief that the attorney has satisfied the scope of appearance agreement, that the attorney and the client must meet and confer either by phone or in person. The fact of the dispute must be disclosed to the court, in the application (FL-955) and the efforts to resolve the dispute. The court should be given the option of setting a hearing to determine if the dispute has been resolved without the need of having the client make a claim for a hearing on the FL-956.”</p>	<p>forms suggest that is appropriate.</p> <p>Presumably an attorney would have tried to meet and confer with the client in the course of requesting a Substitution of Attorneys. The court always has the opportunity of setting a hearing in a matter.</p>
14.	Hon. Garry T. Ichikawa Supervising Family Law Judge	AM	N	FL-950 paragraph 3: “Submission” of the order does not end the need for representation. Disputes regularly arise as to the form of the order.	Agree

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Superior Court of Solano County			<p>Representation should continue until the order is filed.</p> <p>Rule 5.170: The described support for attorney fee requests should be made stronger. Request should require a declaration that gives the name of the attorney, his or her hourly rate, the task performed, and the time spent. Without that detail, for example, the court cannot strike fees for tasks outside the scope of the representation.</p>	<p>Agree. "Tasks performed" has been added to the list of information that must be disclosed to the court.</p>
15.	Mr. Jeffery S. Jacobson Executive Director Levitt & Quinn Family Law Center, Inc.	A	Y	<p>Levitt & Quinn Family Law Center, Inc. strongly supports the adoption of the proposed forms relating to limited scope representation in Family Law cases. Levitt & Quinn is a non-profit organization which provides family law assistance to low and moderate income individuals in Los Angeles. Levitt & Quinn serves clients on an unbundled basis, including limited scope representation, and makes more than 800 court appearances each year. From our vast experience in limited scope representation, we believe that these forms are much needed.</p> <p>The proposed forms are imperative in light of the reality that a majority of family law litigants cannot afford full service representation. These forms succeed in providing notice to the court, opposing party/counsel and the client of the scope of representation. As a result, there will be more clarification and less confusion (e.g. service) than the current system of filing Substitutions of Attorney before and after hearings.</p>	<p>No response required.</p> <p>No response required.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>On FL-950: Delete all checkboxes with regard to issues. From our experience, most clients engage us to make appearances for specific hearings and/or trials on specific dates, not for specific issues. The current form is confusing as to whether the scope is limited to issues and/or dates (e.g. if the attorney represents the client only for the issue of “child support” and the date box is not checked, does that mean that the attorney is obligated to represent the client in all aspects related to that issue on an indefinite basis?)</p> <p>The form should state on top that the attorney will provide representation on a specific date to be filled in. If the attorney is engaged to deal with limited issues on that specific date (or indefinitely), there should be a separate box space below to list a narrative as to specific issues in which the attorney will represent the client.</p> <p>FL-955 is satisfactory as drafted, but might need to be modified to comport with any changes to FL-950.</p>	<p>Will put time limits on first page of form before check list of issues, but believe that clarifying issue specific representation is also critical.</p> <p>No response required.</p>
16.	Ms. JoAnn Johnson Family Law Facilitator Superior Court of Ventura County	A	N	<p>The written agreement between attorney and client should be attached to an Objection otherwise court can’t determine if tasks were completed without it.</p> <p>As to ordering attorney to stay on. This should be strictly limited if limited scope representation is to be encouraged. I think that the court should only require the attorneys to remain on if agreement is ambiguous or significantly unfair to client</p>	<p>Fee agreements between attorney and clients are confidential. If they are submitted, they must be under seal.</p> <p>Agree</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
17.	Ms. Stephanie Kennedy Supervising Legal Clerk II Superior Court of Stanislaus County	A	N		No response required.
18.	Regina Marie Lewis Attorney at Law	A	N	<p>“I have been doing a lot of unbundling in family law over the past 13 years. I consider it a public service. I can’t get rich on it. I am just helping people represent themselves. Sometimes they want my help because they can’t afford full service. Any amount of assistance is better than no assistance. Often they want the privacy that unbundling provides. They do not have to say who is helping them. Often they want to keep the action low key. If a lawyer is not on their papers, maybe the other party will not freak out escalating litigation. The client thinks they have a better chance of negotiating an agreement if attorneys are not involved. I think that a client and an attorney should never be required to disclose that the attorney is assisting the client unless the client wants the attorney to appear in court, or if the client wishes to apply for attorney fees. This relationship should be totally confidential otherwise.”</p> <p>“I do not think that the court should ever require an attorney to represent a client beyond the scope of representation agreed on. That does not make sense. The judges will want to keep the attorney in to help the judge. The attorney will not be able to adequately represent the client on other issues. The attorney will not be paid by the client. If this is possible, attorneys will not appear in unbundled cases.”</p>	<p>No response required.</p> <p>Agree</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>The rule regarding non-disclosure is good, just to clarify that it is okay since the law is silent otherwise.</p> <p>FL-950: Clarify that the attorney and party have a written FEE agreement.</p> <p>FL-955, FL-956, FL-958: Allow an attorney to be relieved if the client has not paid.</p>	<p>No response required.</p> <p>Agree</p> <p>This procedure is not designed to be exclusive. Attorneys can still use the standard Motion for Withdrawal.</p>
19.	Ms. Merry A. Mayes Court Services Coordinator Superior Court of Stanislaus County	AM	N	Rule 5.171(e) When you lodge documents/orders with the court pending resolution or a time frame lapse, you open up the possibility of a case/order “falling through the cracks.” Do the courts have the resources to track the passage of 20-25 days from filing?	Agree. Procedure has been modified to put the burden of filing on the attorney requesting to be relieved.
20.	Ms. Alice McGrath Coordinator of Volunteers for the Superior Court of Ventura County	A	N	“Limited scope representation is desperately needed by the growing number of people who cannot afford full services and are, at present, unable to get any legal help. They have no option except full service, which they cannot afford, or no help at all. In Ventura County, I have been assured by many attorneys that they are ready to offer limited scope representation if they could do so using the forms provided by the Judicial Council.”	No response required.
21.	Hon. Eileen C. Moore Associate Justice Court of Appeal, Fourth Appellate District	A	N		No response required.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
22.	Mr. Deborah K. Mullin Family Law Facilitator Superior Court of Santa Barbara County	AM	N	<p>As a family law facilitator, I am delighted that these rules and forms are being proposed to assist the many litigants that I see that need limited representation.</p> <p>Issue: should the court retain the authority to require attorneys to remain attorneys of record beyond the scope of their agreement? A: No, it would have a chilling effect on the desire of attorneys to take on ltd rep cases. The parties should be free to contract on the scope of representation</p> <p>FL-955:</p> <ul style="list-style-type: none"> - paragraph 3 should include a blank space to put the filing date of the Notice of Limited Scope Representation (in case more than one form has been filed) - this document should be titled “Application to Be Relieved as Counsel...” there is no order section on this form. This language would need to be changed at the top and bottom of the form, in the notice to client section, and in the proof of service. - Put the second paragraph of the “Notice to Client” section in bold, beginning with “If you do not agree...” - The 3rd section of “Notice to Client” section is misleading. It should read, “...(if this form was served by mail on you, you have an additional 5 calendar days after the date of mailing to serve and file your objection.” NOTE: “Date of service” IS the date of mailing. - Proof of Service. The server should be required 	<p>No response required.</p> <p>Agree.</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree. Has been rewritten for clarity.</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>to send the “Application to be Relieved...” AND a blank copy of the “Objection to Application” form. This would be noted in paragraphs 2, 2a and 2b.</p> <p>FL-956:</p> <ul style="list-style-type: none"> - paragraph 2 re: date of service will confusing to a pro per. If mailed, they will probably give date of receipt by them. Is this paragraph even necessary? - Paragraph 4 may be confusing to the pro per. The Notice of Limited Scope Representation lists ISSUES, NOT TASKS. Perhaps it would be better on the Notice of Limited Scope Representation to state the ISSUES to be addressed by the atty of record, and ask the atty to delineate “SPECIFIC TASKS” under each issue item, instead of “(describe in detail)”. - Paragraph 4, line 3, should read, “The reason that I think these tasks ARE NOT completed is...” - NOTE: the Notice refers to “issues.” The Application refers to “services.” The Objection refers to “tasks.” CONFUSING! <p>FL-958:</p> <ul style="list-style-type: none"> - the title of the form should read, “Order on App to Be Relieved as Counsel Upon Complete...” The form in paragraph 5 allows the application to be denied. The title as is presumes that the app will be granted. - Paragraph 3a should have a blank space to insert the date of filing the Objection - Paragraph 3b should not be stated generally as it 	<p>Agree</p> <p>Agree. This paragraph has been removed.</p> <p>Agree. Has been rewritten to describe services.</p> <p>Agree.</p> <p>Agree. The term “services” will be used.</p> <p>Agree</p> <p>Agree</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>is now. It would be better use the format of the OAH: ex (check box) Petitioner/Plaintiff (check box) Respondent/Defendant, (check box) Attorney (name) for P/P, etc.</p> <ul style="list-style-type: none"> - Paragraph 3c should read: “Attorney demonstrated that he or she has completed the tasks listed in the Notice of Limited Scope Representation filed on (insert date). NOTE: The Notice form is mandatory in use. It would be easier to refer to the language in the Notice rather than some other “agreement.” - Insert check box after paragraph 4, if paragraph 5 is granted, then 4 is not applicable - Insert check box after paragraph 6. The client’s current address is not needed if the relief is denied. - Insert a check box after paragraph 7. The “Notice to Client” is not applicable if the requested relief is denied. - The “Notice” should read: “[blank space for name of atty] no longer represents you regarding the issues stated in the Notice of Ltd Scope Rep filed on [insert date]. You may wish to seek OTHER legal counsel - The court needs to know how to ALWAYS contact you...” - Insert a check box after paragraph no. 8 <p>Rule 5.171 Paragraph (a): “...attorneys who have completed the tasks specified in an agreement...” should read “the tasks specified in the Notice of Limited Scope</p>	<p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Agree</p> <p>Disagree. This could be confusing to litigants.</p> <p>Agree</p> <p>Agree</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				Representation” Use of the form is mandatory. Paragraph (b): the Name of the Order is not consistent with the title of form FL-958. I believe the title should read, “Order on Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation.”	Agree
23.	Ms. Mary Nickles Supervising Courtroom Clerk Superior Court of Stanislaus County	No Position	N	On page 2 of Notice of Limited Scope Representation, FL-950 – Is #5 mandatory? What if party doesn’t want address information disclosed to opposing party?	The party would have to provide some address where papers could be served.
24.	Orange County Bar Association P.O. Box 17777 Irvine, CA 92623-7777	N	N	“Opposes the entire concept of ‘Limited Scope Representation.’ It does not benefit the bench, bar or litigating public to create a system that will permit attorneys to bounce in and out of pending cases. Most cases, particularly family law cases, should be considered in their totality, no in mini-segments. These rules and their accompanying forms should be scrapped.”	Disagree
25.	Mr. Lee C. Pearce Attorney at Law	AM	N	FL-950: Addition of an Item 3 indicating something to the effect that a litigant will represent him/herself in connection with all other issues. FL-955: I think that this is unnecessary as a simpler Notice of Withdrawal as proposed in the last round of forms was perfectly adequate. However, this form is better than requiring nothing less than a Substitution of Attorneys or motion to withdraw. The latter, if	Agree. The Committee is not convinced that the simplified procedure suggested in the last comment period satisfies Code of Civil Procedure section 282. It is very sympathetic to the concerns raised and

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				required as the only alternative to a Substitution, will ensure that the vast majority of litigants who need representation which involves court appearances, will be forced to go it alone rather than with the competent, though limited scope, assistance an attorney could offer. Attorneys will just be too afraid of being stuck in a case or forced to go to the expense of a Motion to Withdraw to be sure they are out. It won't be worth their time unless they aren't offered a simpler method.	willing to consider other suggestions as courts and attorneys have more experience with these forms and procedures.
26.	Tina Rasnow Coordinator, Self-Help Legal Access Center Superior Court of Ventura County	AM	N	<p>The forms looked good to us overall, but we think that the application form should have a hearing date, place and time on it.</p> <p>Also, it should just say "Application for Order..." instead of "Application and Order..." because filing clerks have difficulty accepting forms that indicate something is attached, but it is not there. Since the Order form is separate, the application form should not say "and order."</p> <p>On the Objection to Application form we also suggested adding a proof of service to the back, like on the application itself since the folks most likely to oppose the motion are the client who would then be responding pro per. Having the proof of service attached to the objection form clues them in that they need to serve a copy of the objection on the moving party.</p> <p>Thanks for a great draft set of forms!</p>	<p>Disagree. The proposed procedure does not necessarily require a court appearance.</p> <p>Agree.</p> <p>Agree</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
27.	Ms. Leanne Schlegel Attorney at Law	AM	N	<p>“Whether the court should retain the authority to require attorneys to remain attorneys of record beyond the scope of representation agreed upon: Absolutely NOT!!! If I knew that was a possibility, I would have to discuss that possibility with the client and prepare for it, especially financially. If a client could not agree, and be willing and able to fulfill any subsequent financial obligations resulting from such requirement, then I would have to decline to assist the client altogether. That is a disservice both to my client and to the court. It’s like handing the court a blank check at my expense; and since I already do a LOT of pro-bono and reduced fee work, I am not willing to add the specter of doing additional pro-bono work that I don’t want to do.</p> <p>Currently, I do not make limited scope court appearances for the very reason that at least one of our judges/commissioners requires a general appearance for all purposes if you make an appearance in that department. This is also what concerns me about FL-950. Is there, or will there be, a rule prohibiting the court from requiring an attorney, who has check one (or more) of the boxes on that form, to act on behalf of the client in any other area?”</p> <p>FL-955: Line 4 should read: “I have completed all attorney of record services within the scope of my representation.” The reason for that is often the limited scope attorney will stay on tap for consultation</p>	<p>Agree. Judicial training will be important.</p> <p>Disagree. It is unlikely that an attorney will continue working with a client if the client does not sign a Substitution of Attorneys as agreed to in the Notice of Limited Scope</p>

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				and ghostwriting after an appearance. Although the form is proper for the court, I think this aspect needs to be more specific for the client. The implication of #4, as written, is that the relationship between the attorney and the client is ended, when in fact it may not be.	Representation. The term “attorney of record services” is imprecise and may lead to confusion.
28.	Ms. M. Sue Talia, Attorney at Law Danville, California	AM	N	<p>“I talk to literally hundreds of attorneys a year on the subject of limited scope representation, the vast majority in a family law context. The same themes are repeated continually:</p> <ol style="list-style-type: none"> 1) There is a vast population of litigants who are underserved by the current system, desperately need help in navigating it, and are begging attorneys to assist them with limited scope. 2) There are many attorneys who are offering these services despite perceived risks. They report satisfied clients who would receive little or no assistance otherwise. 3) There are hundreds more attorneys who would love to offer these services, but perceive reluctance on the part of the system to approve the same. These attorneys would be vastly more comfortable offering limited scope representation if they had the guidance of forms and rules.” <p>FL-950: Add line at the end that states “3. Party will represent him/herself in all other aspects of the case which are not reserved to attorney above. Opposing counsel or party shall contact the party directly for all such</p>	<p>No response required</p> <p>Agree</p>

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Limited Scope Representation (adopt forms FL-950, FL-955, FL-965, and FL-958 and Cal Rules of Court, rules 5.170 and 5.171)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>issues.”</p> <p>“This is a critical form to approve. If an attorney appears of record, it is imperative that the court, the client and opposing counsel are all advised of the limitations on scope. In that way, the court can manage its calendar, counsel can safely contact the opposing litigant on a substantive issue.”</p> <p>FL-955</p> <p>“One of the greatest fears of the many practitioners I discuss these issues with is their fear that they will have difficulty getting out of a case at the conclusion of their limited scope involvement. They recognize the need, but hesitate to become involved for fear that the client will not sign a substitution at the conclusion of representation.”</p> <p>“In my experience, client reluctance to sign a substitution is triggered more by ignorance than by mendaciousness. They think the attorney is done, don’t want to have to deal with the legal system any more, don’t want to have to pay for any more forms to be filled out, and so they tend to ignore the Substitution that the attorney sends at the conclusion of the case.”</p> <p>“New issues pop up with alarming frequency in family law matters. A long waiting period between notice of withdrawal and acceptance of request to be relieved as counsel is dangerous and will have a</p>	<p>No response required.</p> <p>No response required.</p>

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				<p>chilling effect on an attorney's willingness to get involved. By definition, a waiting period creates a 'limbo' situation for hearings or issues which fall in the interim. I strongly believe that such a waiting period will have a chilling effect on attorneys willing to offer limited scope services."</p> <p>"While I understand the interest in ensuring that attorneys don't withdraw prematurely and the client has a vehicle for protesting an attempted premature withdrawal, I believe that the actual effect of such a procedure is that hundreds of people will be denied meaningful access because attorneys are afraid to get involved."</p> <p>"Perhaps a better way to look at it is to make it easier for an attorney to withdraw, and allow the client, in those few instances when it has been done prematurely, to opt back in. That solves the access issue for the vast majority who will be represented competently and ethically, without depriving the few whose attorney will abuse the system with a remedy. That being said, I believe that 20 days is too long. I would shorten the waiting period to 5 day and approve the form with that modification."</p> <p>FL-956: If notice and objection is required, then I would approve this form as drafted, subject to the shortened time as discussed in connection with FL-955.</p>	<p>The committee is very sympathetic to this concern and is very willing to entertain possible changes to the proposed rule in the future. However, it is not convinced that the commenter's proposed approach meets the requirements of Code of Civil Procedure section 284.</p> <p>The committee is concerned that 5 days is not effective notice to the client.</p>

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				<p>Rule 5.170: “This is a critical rule, not so much because it is new, or changes existing practice, but because it removes any lingering doubt in the minds of practitioners who might shy away from offering needed services. Most people don’t have a clue on how to write an intelligible declaration, or draft an enforceable order. I know attorneys whose entire practices are devoted to document assistance. They should be encouraged, not discouraged. In fact, if attorneys aren’t encouraged by the rules and courts to offer these services, litigants will be left with no alternative but to seek less competent drafting help from non-attorney assistants.”</p>	Agree.
29.	Mr. Dale Wells Family Law Facilitator Superior Court of Riverside County	A	N	<p>“This is a great set of rules and forms. Allowing limited scope representation will help everyone involved: the Court, opposing counsel and the parties themselves. It gives the attorney who is providing the limited representation a way to exit the case when the job is done, but it also provides the client the opportunity to get a hearing on whether the job has, in fact, been completed. It’s an idea whose time has come, especially given the success of the Family Law Facilitator program in the state.”</p>	No response required.
30.	Commissioner Rebecca Wightman Commissioner Superior Court of San Francisco County	AM	N	<p>Rule 5.170 Is the “contract” in the first sentence required to be in writing? Or will that be covered in the Business and Professions Code re: attorney-client agreements? Rule 5.171 Subdivision (d): Although this subdivision requires service of both the application AND the objection form (FL-956) – the second page of the actual FORM</p>	<p>This is covered by the Business and Professions Code.</p> <p>Agree</p>

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				<p>(FL-955) re: Application and proof of service DOES NOT reference the objection form and the fact that it was served. RECOMMENDATION: Change page 2 of FL-955 to reflect that both the Application AND the Objection form was served...</p> <p>FL-956 It is HIGHLY RECOMMENDED that you put in a “box-bold” notice form near the bottom of the page the deadline or time frame by which the notice must be filled, i.e. within X days of when the application was served. SEE SIMILAR FORM 1299.72 used as Notice of Objection to Findings and Recommendation of Commissioner</p> <p>Subdivision (e): The form associated with the required Proposed Order (FL-958) cannot, in my view, function as you have intended IF an objection is filed (i.e. the form cannot be used to notice parties of the hearing, and then also as a ruling). Alternatively, if I am misunderstanding the use of the form, then it would appear that you need to create another form for use by the courts that will make it easy and efficient for the court to provide notification to the parties of a hearing date.</p> <p>Preliminarily, by placing the hearing date, time, etc. in the boxes at the top, it gives the form the “look” of a “notice”-type form vs. an actual Order After Hearing. If being used to “notice” the hearing, the form will have to get filed, and thus cannot be used</p>	<p>Agree</p> <p>The <i>Objection</i> is designed to serve as the notice of hearing.</p> <p>The hearing date, time, etc. will be moved to the body of the text as is more common with orders after hearing.</p>

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				<p>AGAIN to show the disposition of such hearing. If being used only as an Order After Hearing, then you are missing a notice form for the “step” required by the Court to provide and notice a hearing date upon the filing of a timely objection.</p> <p>RECOMMENDATION: Take a look at the set of forms currently being used when a person objects to a Commissioner sitting as a judge pro tem. Those forms make it easy for the Court to set the hearing, etc. The form numbers are in the 1299.70 et. seq. series.</p>	
31.	Mia Baker Chair, State Bar Standing Committee on Delivery of Legal Services	A	Y	<p>“The Standing Committee applauds the Judicial Council for drafting these proposed changes in family law procedures which will facilitate access to the courts in California, assist self-represented litigants and support limited scope legal representation. One member who coordinates family law services at a domestic violence legal clinic stated that the new limited scope representation forms would be “a tremendous help in streamlining our work.”</p>	No response required.
32.	Commissioner Cynthia Denenholz, Superior Court of Sonoma County	AM	N	<p>FL-955: The form should include the designation “Defendant” along with the “Respondent” designations to reflect the captions in governmental child support cases; b) The form isn’t actually an order, as there is no order language or place for a judicial signature.</p> <p>FL-958: Order Relieving Counsel Upon Completion of Limited Scope Representation a) the form should contain a proof of service by the clerk in the event a hearing must be calendared.</p>	<p>Agree</p> <p>Agree</p>

**REPORT ON
LIMITED SCOPE LEGAL ASSISTANCE
WITH INITIAL RECOMMENDATIONS**

**REPORT PREPARED BY THE
LIMITED REPRESENTATION COMMITTEE
OF THE
CALIFORNIA COMMISSION ON ACCESS TO JUSTICE**

OCTOBER 2001

**INITIAL RECOMMENDATIONS APPROVED BY THE BOARD OF GOVERNORS
OF THE STATE BAR OF CALIFORNIA, JULY 28, 2001**



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Access to Justice Commission
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**REPORT ON
LIMITED SCOPE LEGAL ASSISTANCE
WITH INITIAL RECOMMENDATIONS**

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REPORT ON LIMITED SCOPE LEGAL ASSISTANCE WITH INITIAL RECOMMENDATIONS

PART I. INTRODUCTION

The California Commission on Access to Justice established the Limited Representation Committee to study the practice of delivering legal services known as limited scope legal assistance, or “unbundling.” The Committee was directed to analyze current practices and to provide recommendations to the bar, the courts and other involved institutions and individuals to assist them as they address the issues raised by limited scope legal assistance in the civil law context – with the ultimate goal of helping increase the availability of legal assistance for persons of low and moderate means.

The Committee began its work in March of 2001. This report contains the Committee’s initial recommendations, which received unanimous support from the State Bar’s Board of Governors, following a presentation on July 28, 2001. The Committee intends to continue to develop the concepts described here, and to coordinate with other groups considering related issues. The Committee will then present additional recommendations to be pursued by appropriate institutions including the State Bar and Judicial Council.

This report is intended to help clarify the roles and duties of all those involved with limited scope legal assistance: the consumer; the “unbundling” attorney; and the court -- as well as opposing parties and their attorneys.

Statement of Principle

After analyzing many of the issues raised and receiving input from different perspectives, the Committee adopted the following statement of principle:

The Committee finds that consumers of legal services need and are seeking a continuum of legal services that includes both full service representation and limited scope legal assistance. The State Bar should support the expansion of such limited scope legal assistance as part of its ongoing effort to increase access to legal services.

To be effective in this effort, it is necessary to educate attorneys, judges, insurers, and the public about the benefits, risks, obligations, and structure of these arrangements. The committee therefore recommends a collaborative program with the State Bar, Judicial Council, and other interested parties to design and implement that outreach effort and to develop policies and procedures for the appropriate use of limited scope legal assistance.

What is “Limited Scope Legal Assistance”?

The definition of limited scope legal assistance adopted by the Committee is:

A relationship between an attorney and a person seeking legal services in which it is agreed that the scope of the legal services will be limited to the defined tasks that the person asks the attorney to perform¹.

There are three general categories of services involved:

1. Advice and counsel
2. Limited court or administrative appearances
3. Assistance with documents and pleadings

Some limited scope legal assistance is provided in such a way that there is no court appearance and no contact with opposing counsel. This may include legal research or advice and counsel. Other services involve one or more court appearances or contact with opposing counsel.²

Limited scope legal assistance does not involve limiting the liability of attorneys, or the duties attorneys owe their clients with regard to competence, confidentiality, or avoidance of conflicts.

Limited scope legal assistance has been an accepted practice for many years, particularly in certain areas of the law such as bankruptcy, and corporate law – and has recently expanded substantially in the area of family law. Insurance companies have long followed the practice of paying for counsel for specific issues that are covered by their policy. Courts promote limited representation when they appoint an attorney for part of a case, such as to represent a party for one issue in a case, for example child custody. The issues raised by this type of legal assistance are complex and go to the heart of what it means to practice law, and the essence of the attorney-client relationship – as well as the authority of judicial officers to control the cases before them.

The Benefits of “Limited Scope Legal Assistance”

From an **access to justice or consumer perspective**, limited scope legal assistance will increase access to the courts and legal assistance because more individuals will get some legal assistance in situations where, because of a lack of resources, they would receive no legal help if only full service were available. This practice is also partially consumer driven, as consumers of legal services insist on, and receive, greater control over their legal matters and representation.

It also may **encourage more *pro bono* assistance**, because attorneys may be more likely to provide limited assistance *pro bono* if they are assured that they will be allowed to help someone on part of a case without the threat of being forced to commit to a long, costly proceeding.

¹ Also called “unbundling”, “discrete task representation”, “limited representation”, and “partial representation.” These terms are used interchangeably in this report.

² This service involves some level of expectation on the part of opposing parties or attorneys, and questions may arise about who should be served with documents and how to identify the portions of the case in which the attorney is not involved.

From a **court's perspective**, limited assistance will clarify the presentation of issues and help reduce errors and continuances, demand on court personnel, and court congestion. New procedures can provide clarity about when a party is or is not represented, helping the court and opposing parties address such issues as knowing who needs to be served, and with whom they can negotiate.

From an **attorney's perspective**, limited assistance can provide access to many more potential clients, who can afford some, but not the entire, traditional model of legal representation. Attorneys may be able to attract other potential clients who can afford full service, but who want to participate in their own representation. In addition, developing solutions and providing guidance for attorneys who offer limited scope assistance will be a great service, assisting them to avoid malpractice exposure where they perform ethically and competently; ensuring that their involvement in a case is limited to what they contract for; and allowing attorneys to recover court-sanctioned attorney's fees in limited appearances when fees would be awardable for the same tasks if performed in a full service context.

Related Developments

A collaborative approach is the best way to develop the policies and procedures necessary to implement the findings and recommendations of this report. Some of the efforts currently in progress relating to limited scope legal assistance include:

- The Judicial Council's Family and Juvenile Law Advisory Committee is also analyzing issues involving limited scope legal assistance, including proposed Judicial Council forms and policies discussed in this report, and will continue to address these proposals throughout the balance of this calendar year and beyond.
- The Judicial Council has just established its Task Force on Self-Represented Litigants, which will consider this issue of limited scope legal assistance as part of a strategic plan to improve services for self-represented litigants.
- Other states and national organizations, such as the ABA, the American Judicature Society and others are addressing similar issues; this Committee will continue to coordinate with these entities to take advantage of their input as our initial recommendations are finalized and implementation moves forward.
- Several local courts and local bar associations are analyzing limited scope legal services and considering alternative solutions for their local needs. Again, this Committee will coordinate with these entities, to the extent feasible.
- Finally, the State Bar has reinstated its Commission on the Revision of the Rules of Professional Conduct, which will review the Rules, in light of the ethics changes considered by the ABA and changes in the practice of law. This Committee will coordinate with that Commission to ensure that any changes they consider do not inadvertently create barriers for limited scope legal assistance, and to determine whether any minor changes might facilitate limited legal services and make it more available to the public.



PART II. SUMMARY OF INITIAL RECOMMENDATIONS

(See Part IV, pages 9 through 29, for a discussion of these initial recommendations.)

Ethics Recommendation

1. The Committee believes that no modifications to the Rules of Professional Conduct are necessary at this time to implement the recommendations of this report.

Court-Related Recommendations

2. **Limited Representation Form:** Work with the Judicial Council to develop forms to be filed with the court clarifying the scope of representation when the attorney and client have contracted for limited scope legal assistance.
3. **Notice of Withdrawal:** Work with the Judicial Council to develop a standard form of Notice of Withdrawal to formalize attorney withdrawal and notice at the conclusion of limited scope legal assistance.
4. **Ghostwriting:** Work with the Judicial Council to develop a rule of court that would allow attorneys to assist in the preparation of pleadings without disclosing that they assisted the litigant if they are not appearing as attorney of record.

Disclosure & Agreement Recommendations

5. **Consumer Education Brochure:** Work with the State Bar to develop a consumer education brochure describing the options, benefits and potential risks for consumers of limited scope legal assistance.
6. **Sample Agreements and Forms:** Work with the State Bar to develop standards for limited scope retainer agreements and sample practice forms.
7. **Education and Outreach:** Work with the State Bar to develop programs to educate attorneys about the limits of limited scope legal assistance and the requirement of competency; to educate consumers on their rights; and to educate all participants on the importance of disclosures and communication.

Insurance Recommendations

8. **Education to Reduce Exposure:** Work with the State Bar to develop plans to educate insurance carriers about limited scope legal assistance and the ways attorneys can reduce their claims exposure when providing such services, and to develop plans to educate attorneys and judges about criteria, procedures, and forms for providing limited scope legal services.
9. **Develop Risk Management Tools:** Work with the State Bar to develop risk management tools for attorneys and clients.

Lawyer Referral & Information Services (LRIS) Recommendations

10. **Consider Modifications to LRIS Regulations:** Request that the State Bar Office of Certification work with appropriate entities to complete a review of present LRIS regulations to determine if any changes or rule explanations would be necessary to encourage LRIS organizations to offer effective limited scope panels.
11. **Training:** Request that the Program Development Unit of the Office of Legal Services, Access & Fairness include training about limited scope services as part of its curriculum for future LRIS trainings.

PART III. CHARGE OF THE COMMITTEE **AND SCOPE OF WORK COMPLETED**

The Limited Representation Committee of the Access to Justice Commission was asked to evaluate the current state of the field with respect to the availability of limited scope legal services for civil legal matters, and the issues raised by this delivery mechanism. This report is based on a first look at the area, and contains initial recommendations intended to form the basis for further work by the Committee, often in conjunction with other entities. The Committee recognizes that there are other groups and individuals with relevant knowledge and experience in this area; many assisted the Committee in this preliminary phase, and many will be consulted as the work continues.

To begin the analysis, five study groups were formed to examine issues relating to:

- Ethics
- Courts
- Disclosures and Agreements
- Insurance
- Lawyer Referral & Information Services (LRIS)

The Committee and its study groups conducted several focus groups, distributed questionnaires, and conducted one-on-one interviews. Among the persons consulted through these methods were attorneys who do and attorneys who do not offer limited scope services, judges, LRIS representatives, ethics and insurance experts, legal services advocates, family law facilitators, and users of limited scope legal services. Information was also received from the State Bar-sponsored LRIS roundtable conducted on August 14th, 2001.

The Committee focused its attention on limited scope services in the context of private attorneys, and does not address some of the different, but related issues involved with self-help assistance offered at court-based self-help projects. These will be addressed by the new Judicial Council Task Force on Self-Represented Litigants. The recommendations and conclusions of this report are limited to civil matters, where there is currently no right to appointed counsel; however, there are models that may provide helpful information in the criminal justice representation context.

Going forward, the Committee plans to:

- develop the concepts outlined in this report and coordinate with other groups;
- draft specific recommendations for implementation by appropriate institutions including the State Bar and Judicial Council;
- work with the reactivated Commission on the Revision of the Rules of Professional Conduct to provide input to their process; and
- continue analysis of issues, including concepts raised during the input phase, such as how prepaid plans could or should be involved.



PART IV. ANALYSIS AND INITIAL RECOMMENDATIONS FOR ACTION

A. ETHICS ISSUES

Initial Recommendation 1: Ethics

The Committee believes that no modifications to the Rules of Professional Conduct are necessary at this time to implement the recommendations of this report.

The Committee adopted this initial recommendation based on the input it received at focus groups and on its own analysis of the rules and relevant ethics opinions. The Committee believes that the Rules provide no barrier to providing limited scope representation even though ethical questions or issues may arise as in any other representation.

The attorney-client relationship, unless established by court appointment, is based on an agreement between the parties. That agreement defines the essential elements of the relationship, including the scope of services to be provided by the attorney. There is nothing in California law that circumscribes the ability of the attorney and client to reasonably limit the scope of services in any way acceptable to them.³ In fact, it has long been the practice for clients, both corporate and individual, to retain attorneys to assist with some portion of the representation needed in a transaction or case. [For an analysis of the authority to limit legal assistance, see L. A. County Bar Association Opinions 483 (1995) and 502 (1999).]⁴ The critical issue for the attorney in a limited scope representation is that the client fully understand and agree to what the attorney will do, and, more importantly, what the attorney will not do. (See Disclosures and Agreements section of this report.)

It is important to note that limits on the scope of legal assistance do not limit the ethical obligations of the attorney to the client, including the duty to maintain confidentiality [Business & Professions Code §6068] and to act competently [California Rules of Professional Conduct 3-110]. An attorney-client relationship is established, involving all duties owed to clients in any other form of representation. In addition, such a limited representation does not limit the obligations of counsel to other parties or to the court. Finally, it should be noted that limiting the scope of representation does not limit the attorney's exposure to liability for the work he or she agreed to perform, nor is such a limitation permissible.

³ See Comment to California Rules of Professional Conduct, Rule 3-400: "Rule 3-400 is not intended to apply to customary qualifications and limitations in legal opinions and memoranda, nor is it intended to prevent a member from reasonably limiting the scope of the member's employment or representation. (Amended by order of Supreme Court, operative September 14, 1992.)"

⁴ Los Angeles County Bar Association Ethics Opinion 502 is reprinted as part of the Appendix, p. 49.

Conflict of Interest

The issue of conflicts of interest presents a more complex question. In general, the rules that apply to any attorney-client relationship regarding conflicts apply as well to the provision of limited legal services. In some situations, however, the circumstances of the assistance preclude a full search for potential conflicts. Where a *pro bono* attorney is working in a clinic providing advice and counsel to clients of a legal services program, for example, the attorney may not have access to the conflict checking system of his or her firm. If the attorney is aware of a conflict, such as a personal representation of the opposing party, he or she must refuse to provide the services; but difficult choices may arise where the lawyer does not know that an actual conflict exists.⁵

Communication with Opposing Party

Among other issues frequently raised in discussions of limited scope representation is the question of communication between an attorney and an unrepresented but assisted opposing party. The issues raised by this concern seem to be practical rather than ethical in nature.

A self-represented party may be contacted by opposing counsel. Rule 2-100 (A) only restricts contact when the person is “represented by another lawyer.” For this rule to be applicable, it would appear that opposing counsel must be aware that the party is represented. Where there is not an attorney of record and the attorney is not aware of any representation of the opposing party, there does not appear to be any restriction on such contact.

Even when opposing party has an attorney for part of a case, there is no restriction on contact by the opposing attorney on other parts of the case. Further, a member may contact the opposing party when the attorney has consented to that contact. [Rule 2-100 (A).] Of more practical importance is an attorney’s concern about knowing who has authority to negotiate on a given issue, or having to negotiate different issues with different individuals. The limited representation form recommended by this Committee, and discussed in the “Courts” section below, may at least help clarify when opposing party is or is not represented by counsel, and thus when direct communication is appropriate.

Assistance with Documents

The preparation of pleadings or other court documents by an attorney for a self-represented litigant also presents some potential ethical concerns. There is no California statute, rule, or case that requires the attorney to disclose his or her participation to either the court or the opposing party. Since the party is the one signing the document, it is the party who is certifying that the document is not fraudulent, misleading, or otherwise improper under Code of Civil Procedure §128.7. Because the party is therefore subject to sanctions for an improper pleading, it is important that the attorney advise the client of §128.7, and of the consequences of its violation.

⁵ The Commission on Evaluation of the Rules of Professional Conduct of the American Bar Association, in its Ethics 2000 Report, has recommended an amendment to the ABA Model Rules to account for the situation where the attorney in a clinical situation has no knowledge of a potential imputed conflict based on representation of the opposing party by someone else in the firm. Proposed Model Rule 6.5 provides that a lawyer may provide limited legal services to a client in a court-annexed or non-profit program where the attorney is not aware of any potential conflict of interest. The Supreme Judicial Court of Maine recently adopted a new rule 3.4 (j) of the Maine Bar Rules that includes a similar provision. While it is not necessary to proceed with the preliminary recommendations of this report to adopt such a rule, the special committee established by the State Bar to review the ethics rules should consider this rule closely.

While some outside of California have opined that failure to disclose ghostwriting is a fraud on the court, there is no such California authority. California courts seem to be more aware of the value of having attorneys provide this assistance. Judges have provided feedback to this Committee indicating that it is usually very clear when a litigant has received some legal assistance, and they prefer litigants receive some help, rather than none. (Please see the “Pleading and Document Preparation” discussion in the “Courts” section below.)

Termination of Representation

The termination of the limited scope representation presents additional ethical issues. Where the assistance provided to the client is intended to be more than a brief, one-time event, the attorney must take care to properly terminate the representation. If no court appearance is involved, the client must be clearly advised that the agreed-upon representation has been completed, and that the attorney is no longer assisting the client. The client must also be advised of any impending deadlines or other tasks pending, and any other consequences of the attorney’s withdrawal. Where the limited representation has included court appearances, the attorney must also take whatever steps are legally required to assure that he or she is no longer attorney of record. (California Code of Civil Procedure Section 284.2, Rule 3-700) Again, development of Judicial Council forms to specify the extent of the limited scope relationship and show when such a relationship terminates will be helpful in this connection.⁶

Conclusion on Ethics Issues

The current Rules of Professional Conduct do not preclude the ability of attorneys and clients to limit the scope of the representation provided. They do, however, provide the same guidelines for that representation that they do for any other form of representation, including maintaining confidences, avoiding conflicts, and assuring competence. The State Bar has established a commission to review the Rules in light of changes in the delivery of legal assistance and of the ABA Ethics 2000 report. While no changes are needed in the Rules to permit limited scope representation, it is important that this Committee offer to work with that commission to assure that there are no changes that would restrict—and that there is consideration of changes that might enhance—the ability of clients to obtain the services they need.



⁶ This matter is discussed further in the Courts and Disclosures sections of this report.

B. COURTS ISSUES

California's courts are encountering an increasing number of self-represented litigants in civil cases throughout the state. Currently, over one half of the parents seeking custody and visitation orders from the courts act as their own attorneys, and over seventy-five percent of parents with child support problems proceed on their own. Many large courts report that self-represented litigants filed more than eighty percent of new divorces. Self-represented litigants require more time from both judicial officers and clerical staff than represented litigants, as they are unfamiliar with court processes and the law.

Limited scope representation helps these self-represented litigants:

- to prepare their documents legibly, completely and with greater accuracy;
- to prepare their cases based upon an improved understanding of the law and court procedures;
- to have representation for a portion of their case, such as for one court hearing, even if they are unable to afford full representation;
- to obtain assistance in preparing, understanding and enforcing court orders.

This increased assistance can reduce the number of errors in documents; limit wasted court, litigant and opposing attorney time due to procedural difficulties and mistakes by self-represented litigants; and decrease demands on court personnel and docket congestion. Judicial officers indicate a strong interest in assisting self-represented litigants obtain as much information and assistance from attorneys as possible. They point to the California courts' positive experience with self-help programs such as the Family Law Facilitator program, which provides assistance to self-represented litigants with paperwork and education. These programs, however, cannot meet the needs of all self-represented litigants and must, by nature of existing regulation of their operation, have limitations on the scope of services that can be provided.

Advice and Counsel

The courts are generally not directly confronted with "advice and counsel" cases as attorneys are consulting with clients in their offices and there is little cause for the court to be informed of their involvement. In general, any advice and counsel that a litigant can receive from an attorney will be helpful to them in determining whether to bring a matter to court, and in identifying the legal issues involved.

Limited Court Appearances

Initial Recommendation 2: Limited Representation Form

Work with the Judicial Council to develop forms to be filed with the court clarifying the scope of representation when the attorney and client have contracted for limited scope legal assistance.

Initial Recommendation 3: Notice of Withdrawal

Work with the Judicial Council to develop a standard form of Notice of Withdrawal to formalize attorney withdrawal and notice at the conclusion of limited scope legal assistance.

One of the key services that self-represented litigants in focus groups reported they would like to receive is an attorney to argue a motion, evidentiary hearing or trial in court. This is generally in the best interests of the judiciary, as attorneys are aware of local rules and procedures, rules of evidence, and the scope of legally relevant issues. Judicial officers can direct counsel to prepare orders after hearing, and otherwise receive counsel's assistance through a clear presentation of the case, saving significant court resources.

However, this is an area in which attorneys are often cautious about providing limited scope services. Lawyers need certainty that courts will abide by the limitations contained in the retainer agreement. In general, while a court may have a preference for an attorney to represent a litigant for the entire case, the court's desire for more litigants to be represented in court proceedings can effectively be met by allowing limited scope services.

The Committee recommends that the Judicial Council adopt a form clarifying that an attorney is making an appearance for a limited issue or for only one hearing. This would provide notice to the court and the other party, and ensure a clear understanding between the client and lawyer regarding the scope of the service. It would also allow clerks and opposing counsel to know who was attorney of record and to whom notice should be sent for various stages of a case. The Committee will investigate the utility of asking the Judicial Council to consider adopting procedures for ex parte applications to be relieved as counsel in the event that a client fails to comply with an agreement to execute a substitution of attorney form upon termination of the limited scope of representation.

The Committee plans to investigate the design of materials that the Judicial Council could use to include discussion of limited scope services in training for judicial officers, to consider case management issues and techniques to encourage use of attorneys who are willing to assist litigants with a portion of their case even if they cannot afford full representation.

Pleading and Document Preparation

Initial Recommendation 4: Ghostwriting

Work with the Judicial Council to develop a rule of court that would allow attorneys to assist in the preparation of pleadings without disclosing that they assisted the litigant if they are not appearing as attorney of record.

Limiting the scope of representation to the preparation of pleadings is a widespread practice in California. The primary issue of concern during the Committee's discussions was whether attorneys should be required to disclose that they assisted a litigant in drafting the documents.

There is no specific statute or rule that prohibits an attorney from assisting a client in the preparation of pleadings or other documents to be filed with the court, without disclosing the attorney's role to the court. Further, there appear to be no published court decisions in California state or federal courts which have required an attorney's disclosure to the court regarding his or her involvement in preparing pleadings or documents to be filed by a self-represented litigant [LACBA Ethics Opinion 502 (1999) and LACBA Ethics Opinion 483 (1995)]. The issue appears to be a policy decision for the courts.

Some courts in other jurisdictions have expressed concern that providing anonymous assistance to a self-represented litigant is defrauding the court by misrepresenting that the litigant has had no assistance. There is a concern that this might lead to special treatment for the litigant, or allow the attorney to evade the court's authority. However, California's family law courts have been allowing (and encouraging) ghostwriting for many years. Family law facilitators, domestic violence advocates, family law clinics, law school clinics and other programs and private attorneys serving low-income persons have often drafted pleadings on behalf of litigants. Judicial officers in the focus groups reported that it is generally possible to determine from the appearance of a pleading whether an attorney was involved in the drafting of the document. They also report that the benefits of having documents prepared by an attorney are substantial.

Focus groups with private attorneys who currently draft pleadings on behalf of their clients revealed that they would be much less willing to provide this service if they had to put their names on the pleadings. Issues raised included:

- increased liability;
- worry that a judicial officer might make them appear in court despite a contractual arrangement with the client limiting the scope of representation;
- belief that they are helping the client tell his or her story – and that the client has a right to say things that attorneys would not include if they were directing the case;
- fear that the client might change the pleading between leaving the attorney's office and filing the pleading in court;
- apprehension that their reputation might be damaged by a client's inartful or inappropriate arguing of a motion;
- concern that they would be violating the client's right to a confidential relationship with his or her attorney;
- worry that they may not be able to verify the accuracy of all the statements in the pleading given the short time available with the client.

It does not appear that the filing of “ghostwritten” documents deprives the court of the ability to hold a party responsible for filing frivolous, misleading or deceitful pleadings. A self-represented litigant makes representations to the court by filing a pleading or document about the accuracy and appropriateness of those pleadings. In the event that a court finds that CCP Section 128.7(b) has been violated, the court may sanction the self-represented litigant and also may lodge a complaint with the State Bar about the attorney’s participation in the preparation of a frivolous or misleading document, whether his or her name is on the pleading or not. Given that the current practice is not to require ghostwriters to disclose their participation in a case, there seems to be no reason to require such a rule.⁷ Adoption of a rule requiring disclosure is likely to discourage access to the courts, leave more litigants without attorney assistance in the drafting of pleadings, require more courts to decipher pleadings by unassisted self-represented litigants and cause continuances to allow time for filing and service of correct and complete pleadings.⁸

Attorneys Fees

Awarding attorneys fees in cases where a litigant receives assistance with completing paperwork or preparing for a hearing may also help to encourage attorneys to provide this service. Family Code Section 2032 states that the court “. . . shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party’s case adequately.” For many litigants, the only counsel they would be able to afford, even with attorney’s fees awards, is counsel willing to provide limited scope legal services. If through coaching or assistance with preparation of a pleading, a litigant were able to present their case “adequately,” an award of fees might also be appropriate. When the proposed rule on ghostwriting is considered by the Judicial Council, it would be helpful to also consider how to address the issue of attorneys fees for limited representation. One possibility is to require that attorneys providing limited task representation disclose their involvement only if the litigant is requesting attorneys fees to pay for their services.

Conclusion on Courts Issues

The role of the courts in addressing limited scope legal assistance is extremely valuable. The recommendations contained in this report would go a long way to clarify the practice of limited scope legal assistance for the courts, for litigants, and for their attorneys.



⁷ Disclosure of ghostwriting is an area of considerable confusion. Legal document assistants are required to disclose. Other non-lawyers are not. Disclosure of ghostwriting appears to be more important when the person preparing the paperwork is not an attorney and is not governed by professional standards or subject to disciplinary proceedings or malpractice actions. Attorneys who ghostwrite, like attorneys who offer any form of limited scope representation, are, by contrast, still held to their professional standard.

⁸ For further discussion of this issue, please see the Disclosures and Agreements section below.

C. DISCLOSURE AND AGREEMENT ISSUES

The nature and scope of disclosures can make the difference between a successful and an unsuccessful representation in this area. Disclosures fall into two categories: those made to the potential client and those made to the court. The Committee considered the following issues:

- What disclosures should an attorney make to ensure that a potential client understands the options available for limited scope representation and gives informed consent to the limitations?
- What should be included in retainer agreements to clearly delineate the limitations on scope and apportionment of responsibility?
- What is an attorney's obligation to disclose to the court that he or she provided assistance with document preparation when the attorney is not of record?
- Where an attorney appears, what obligations arise to disclose the limited scope of representation to the court and opposing party?
- What forms or materials could be developed to assist attorneys in meeting their obligations for disclosures and agreements?

The Committee's research, along with information received from focus groups and questionnaires, indicated helpful findings in several areas.⁹

1. DISCLOSURES TO THE CLIENT

Informed Consent

As is discussed above under the "ethics" section, there is no inherent breach of ethics in limiting the scope of legal representation, so long as "the client is fully informed and expressly consents to the limited scope of the representation." [LACBA Ethics Opinion 483 (1995).] LACBA Ethics Opinion 502 (1999) further provides that the attorney should advise the potential client of the consequences of choosing limited scope "including the difficulties which the client may encounter in appearing in court on his or her own behalf." (LACBA 502, p.4)

Initial briefing of the potential client is essential. Where limitations on scope are being considered, the attorney has an obligation to advise the potential client of the options for limited or full representation and the consequences of electing one or the other. The attorney has the further obligation to determine whether the client is capable of undertaking self-representation, given the facts, law, and other circumstances.

⁹ There is much that has been written over the years, many sample forms and practices developed, and dozens of workshops offered on how to competently and efficiently offer limited scope legal assistance. This pioneering work by such experts as Forrest (Woody) Mosten, Sue Talia, and others has helped lay the foundation for the expansion of limited scope legal assistance and clarify the types of disclosures and agreements that are most appropriate.

The competing needs of full disclosure and informed consent on the one hand, and the client's desire to reduce costs on the other, raise practical issues regarding the effective use of time with the potential client. Many of these contacts are one-time only, and the client's primary motivation for seeking limited scope assistance is to reduce cost. It potentially defeats the goal if the available time is consumed by lengthy explanations. Furthermore, since so many of the contacts are single events, it could be impractical to require lengthy engagement or retainer agreements in all cases. Therefore, when the attorney's involvement is a single contact, a "non-retainer" letter, which documents the fact that the client is not retaining the attorney to perform further services, would be advisable.

At the conclusion of the limited scope representation, the attorney should disclose what lies ahead, including procedures the client should be aware of, or pitfalls to avoid.

Initial Recommendation 5: Consumer Education Brochure

Work with the State Bar to develop a consumer education brochure describing the options, benefits and potential risks for consumers of limited scope legal assistance.

Some preliminary disclosures concerning limited scope legal assistance could be made through printed materials. This could include such documents as a consumer-oriented brochure issued by the State Bar that would describe the options available for limited services and explain the differences between limited and full service in understandable language. The brochure would be designed to outline the various forms that limited scope legal services could take and outline questions that potential clients should ask their attorney. It would serve as a basis for the discussion of the type of representation that would be appropriate for their specific case. The brochure could be displayed in the attorney's waiting room and reviewed by the client before meeting with the attorney. While no brochure is a substitute for the attorney's professional judgment and that attorney's explanation to the potential client, it would be a useful introduction to the options available and a basis for discussion.

Documentation of the Specific Limitations on Scope between the Attorney and Client

Initial Recommendation 6: Sample Agreements and Forms

Work with the State Bar to develop standards for limited scope retainer agreements and sample practice forms.

Once the attorney and client have decided that a limited scope engagement is appropriate, the decision to enter into a limited representation arrangement should be made. (This decision to enter into a limited representation arrangement should be reached only after the attorney has used his or her professional judgment, considering the issues, law, ability of the client to self-represent, and all other relevant factors.) The results should be delineated clearly and in writing, and the limitations should be expressly stated and not implied. An agreement that requires the client to affirmatively indicate which tasks the attorney is requested to perform is preferable to one that excludes certain areas and includes everything else. The latter is likely to create ambiguity and confusion.

Retainer Agreements

A good agreement clearly demonstrates the client's consent to restrict the scope of the attorney's representation. It should require the client to affirmatively specify the services requested, such as checking boxes on a form to indicate services they want, rather than leaving services implied. It must demonstrate the clear allocation of tasks. Because each case is different, the agreement should be flexible enough to be tailored to a specific situation. It should also be revised every time the scope changes, as it frequently does.

The agreement should be simple enough for the client to understand, and detailed enough so that the limited scope is clearly delineated. The State Bar can assist in training attorneys on the types of retainer agreements they should consider, including "non-retainer" agreements. Standards for limited scope agreements would assist attorneys to fully satisfy their obligations for disclosure of limited scope representation.

Agreements must be clear and modifiable

An attorney-client relationship that requires a written agreement,¹⁰ should also disclose the limitations on scope and the client's responsibilities in writing. These agreements must be clear and modifiable. The need for clarity is obvious as it is an agreement between the attorney and client under which the client will perform certain tasks traditionally reserved to the attorney.

The need for ease of revision or modification is inherent in the nature of limited scope arrangements, as the scope may change over time as the case develops. As some clients find self-representation more difficult than originally expected, limited representation frequently evolves into full representation, which must be documented in a new agreement in compliance with §6148. Further, as new issues arise the scope may change, and the new limitations or boundaries must be delineated in a clear writing.

¹⁰ See Business and Professions Code §6148.

Limited scope arrangements fall into several different categories, most requiring a written agreement tailored to the specific limitations on which the attorney and client agree. (An exception is a single consultation, discussed elsewhere.) An essential part of the service offered is the attorney's analysis of the law and the facts as well as an analysis of the client's capacity for self-representation as a prerequisite for entering into such an agreement. For that reason, "boilerplate" agreements that provide no opportunity for modification are not suitable to limited scope representation. Checklists delineating the tasks to be performed by the attorney and those to be performed by the client, and which can be incorporated in or attached to the written agreement, are of great practical benefit. These checklists clearly set forth the apportionment of tasks, set the boundaries, reinforce the client's responsibilities, and protect the attorney. They can also be easily supplemented as the scope of limitation changes.

Education and Outreach

Initial Recommendation 7: Education and Outreach

Work with the State Bar to develop programs to educate attorneys about the limits of limited scope legal assistance and the requirement of competency; to educate consumers on their rights and obligations; and to educate all participants on the importance of disclosures and communication.

While many attorneys currently offer limited scope representation, more would be likely to do so if they understood the risks and benefits, and had a better understanding of the issues raised and possible solutions. The State Bar could greatly assist by offering training to attorneys and information to consumers of legal services on their options for limited representation.

Limited scope assistance is well established in a number of areas of current practice. The attorneys who engage in limited representation seek to offer a public service, improve access, and serve a population that would otherwise lack professional assistance. They perceive that they are operating with little guidance and assistance and would like to see more consumer and attorney education. The Committee and the State Bar should develop and disseminate standards for limited scope retainer agreements and sample forms for use which can be helpful to attorneys wishing to offer limited scope legal assistance.

2. DISCLOSURES TO THE COURT

Scope of representation

There is a fear among attorneys that judicial officers will not honor limited scope agreements and will require them to remain in the case for services outside the negotiated scope. Judicial officers generally welcome the assistance of counsel, which results in better educated self-represented litigants and clearer pleadings. However, there is a concern that the limited scope of the representation by attorneys who appear of record should be disclosed to facilitate service of process, calendar management and notice to opposing counsel. The Committee believes that appropriate court forms and rules can address this concern. Suggestions for possible court rules and/or court forms are discussed above under "Courts."

Next Steps on Disclosure and Agreement Issues

The Committee will take some additional steps, as its work continues:

- Collect retainer agreements and other forms of agreement for study and evaluation, and identify standards for limited representation agreements.
- Review disclosure statutes for non-attorney document preparers.
- Work with the State Bar to prepare lawyer education materials to assist in the training of attorneys.
- Identify standards for disclosure to clients of options available for limited scope representation.
- Work with attorneys who currently offer, or would like to offer, limited representation, so as to help them keep abreast of ongoing concerns and practical problems regarding disclosures and agreements.
- Work with judicial officers to determine what disclosure issues impact their courts and identify steps to address the issues raised.



D. INSURANCE ISSUES

As set forth in previous sections, limited scope legal assistance currently exists as a mechanism for providing civil legal services. The absence of any systematic treatment by the insurance industry of the issue of limited representation tends to underscore the lack of controversy in this area. In other words, it does not appear that the insurance industry has made any substantive distinction between limited and full-service representation. Thus far, it appears that few malpractice judgments have been entered related to limited scope legal assistance.

The Committee made two general inquiries concerning how insurance issues might impact on limited scope legal services. First, the Committee sought to identify the malpractice insurance concerns that could deter attorneys from providing limited scope legal services. Second, the Committee attempted to make a preliminary determination of the insurance industry's perspective on coverage for limited scope legal services.

Comments from Attorneys and Insurance Industry Representatives

Participants in focus group discussions concerning limited scope legal services, as well as those who responded to our questionnaires, included both practitioners and insurance industry representatives. Their concerns reflect some uncertainty about potential liability, and a desire for clearer definitions and practices.

Attorneys expressed concern about the effect of established case law on malpractice liability when they offer such representation.¹¹ They would like to see case law qualified in some manner to account for limited scope legal services, perhaps through court rules. In this context, the

¹¹ California courts have acknowledged limited scope legal assistance, but few cases have addressed its contours. See, e.g., *Buehler v. Sbardellati* (1995) 34 Cal. App. 4th 1527; *Nichols v. Keller* (1993) 15 Cal. App. 4th 1672; and *Piscitelli v. Friedenber* (2001) 87 Cal. App. 4th 953.

In *Buehler*, two existing clients of a law firm joined to form a limited partnership. Defendant attorney agreed to represent the partnership only and warned the parties that in the event an adversarial relationship developed he would be unable to represent either client individually. When that in fact did happen, plaintiff client sued for malpractice alleging that defendant attorney failed to give "undivided loyalty and commitment to the client." The Court of Appeal disagreed and upheld the jury verdict for defendant attorney, finding that the representation had been limited by the parties to the representation of the partnership only and that plaintiff client was fully informed of that fact. The Court also distinguished *Nichols*, *infra*, stating that in *Nichols*, the parties did not carefully limit the representation, and they failed to exclude the third party claims, whereas the parties in *Buehler* had made the proper limitations in the representation.

In contrast, the *Nichols* court sided with the plaintiff. There, plaintiff client did not pursue a possible third party claim because, he alleged, his workers' compensation attorney failed to advise him of its existence. The trial court granted defendant attorneys' summary judgment motion holding that the representation was limited to workers' compensation matters only. The Court of Appeals reversed that ruling, however, finding that a duty existed to warn plaintiff of the potential claims. The Court held that even if defendants' representation was limited in scope, the foreseeability of harm to plaintiff resulting from the failure to warn plaintiff of a potential third party claim compelled finding a duty on the part of defendants.

Finally, in *Piscitelli*, defendant attorneys argued that, despite broad language in the retainer agreement, there was a limited scope representation and, consequently, they did not have a duty to protect their client's interests from being co-opted by a related class action settlement. The Court of Appeals disagreed. The Court distinguished *Nichols*, *supra*, stating that in *Nichols* the issue was one of scope of representation. On the other hand, in *Piscitelli* the Court held that the scope of the representation was determined by the retainer agreement, and it clearly covered the representation at issue. Thus, the real issue was one of a breach of the duty to exercise ordinary skill and care in the handling of plaintiff's matters, not one of limited scope legal assistance.

responding attorneys made clear that they did not want to be the guarantors of those aspects of a client's matter in which they were not involved.

Insurers are aware that limited scope representation is becoming more and more common, but some have expressed concern that attorneys who provide such services may be liable for acts and omissions which lie outside the agreed upon scope of representation.

Developing Risk Management Tools and Conducting Educational Outreach

Initial Recommendation 8: Education to Reduce Exposure

Work with the State Bar to develop plans to educate insurance carriers about limited scope legal assistance and the ways attorneys can reduce their claims exposure when providing such services, and to develop plans to educate attorneys and judges about criteria, procedures, and forms for providing limited scope legal services.

Initial Recommendation 9: Develop Risk Management Tools

Work with the State Bar to develop risk management tools for attorneys and clients.

Both attorneys and insurance industry representatives would like to have a system in place that limits attorneys' liability to the limited scope representation that they and their clients have agreed upon, so long as those services are competently provided. Without these clear limits, some attorneys avoid limited scope representation for fear of either having to pay higher insurance premiums or incurring liability for aspects of the case on which they did not work or which they did not control.

Attorneys have also asked that the insurance industry and the State Bar give their "seals of approval" to the practice, insuring that limited scope representation will not create additional liabilities. The Committee has made initial recommendations supporting the development of Judicial Council forms that clarify the limited nature of an appearance, and clarify that disclosure of "ghostwriting" is not required. The Committee believes that the adoption of a limited representation form and a clear policy on disclosure respond to these concerns because they will promote the understanding that limited scope legal assistance is an accepted practice. These recommendations are discussed above in the "Courts issues" section of this Report.

Insurance experts have noted that the industry would be more supportive if a clear, formal definition of the common term “unbundling” were developed. This Committee has developed a clear, formal definition of “limited scope legal assistance” that should help to address both consumer and attorney confusion and the insurance industry’s concerns expressed above (see page 3 above). In addition, insurance industry representatives would like to see case management procedures that document advice given to clients, provide clear notice to the client of the scope of the representation and the potential pitfalls, and involve an ongoing assessment of whether the client can proceed on his/her own for other aspects of the case. Recommendations concerning sample practice forms, disclosures and agreements are discussed above in the “Disclosures and Agreements” section of this Report.

Conclusion on Insurance Issues

Ultimately, the Committee will need to clearly ascertain whether actions will have to be undertaken, whether through the courts, Legislature, State Bar, the insurance industry and/or others, so that attorneys’ malpractice exposure will not increase if they competently provide limited scope legal assistance.

The Committee will develop plans to educate insurance carriers about limited scope legal assistance and the means for attorneys to reduce their claims exposure when providing limited scope legal services. The development of risk management tools should further this process and provide additional guidance for attorneys seeking to offer such services. The Committee will also cooperate with others in developing plans for educating attorneys and judges about limited scope legal assistance and developing criteria, procedures, and forms for providing these services.



E. LAWYER REFERRAL AND INFORMATION SERVICES ISSUES

During its investigation, the Committee reviewed a variety of ways in which consumers of legal services access both full representation and limited scope legal assistance. The state's Lawyer Referral and Information Services, or LRISs, are traditionally one of the prime access points for the public to contact lawyers, and the Committee analyzed the level of limited scope legal services presently being offered through this important system.

Regulated by the State Bar of California, under authority granted by the California Supreme Court and by legislation, LRISs operate to match consumers in search of legal services with attorneys experienced in the relevant area of legal need. The present regulatory scheme and most operational models are based on the assumption that panel attorneys will provide full representational services. LRISs are funded through referral usage fees and through the return of a percentage of legal service fees collected by panel attorneys in successful referral matches. Although the Committee did not address other emerging systems of matching consumers to attorney services in detail, it does believe that as new technologies lead to new access routes each should be developed to encourage the broadest access to limited scope legal assistance possible.

Concerns and Barriers to Expansion of Limited Scope Legal Services Via LRISs

While a number of the state's LRIS organizations have experimented with limited scope legal referral panels, especially in the areas of bankruptcy services, will drafting, and family law, few have reported operating successful panels that effectively serve large numbers of clients. LRIS organizations face economic pressures resulting from the changing ways consumers obtain information about legal services, including internet-based search tools, commercially-produced legal advice systems, and non-attorney service organizations.

During a recent LRIS round-table event in August 2001, the prime barrier cited by many services to adding limited scope legal services was the fear that such referrals would supplant the existing full representation referrals that provide much higher economic returns to LRISs. After discussion at the roundtable about the ways in which limited scope services represent an important service to consumers, possibly resulting in increased numbers of satisfied customers, concerns decreased dramatically. This was particularly true because, in fact, consumers are now using the LRIS system to obtain limited scope legal services. If the LRIS system does not account for these kinds of requests, consumers will probably continue to call LRISs when they need help on a discrete task, and then be referred to a series of attorneys, in a very inefficient manner. The consumers do not get what they want, and the LRIS system does not achieve its goals either.

Analysis of LRIS Regulations and Training on Limited Representation

Initial Recommendation 10: Consider Modifications to LRIS Regulations

Request that the State Bar Office of Certification work with appropriate entities to complete a review of present LRIS regulations to determine if any changes or rule explanations would be necessary to encourage LRIS organizations to offer effective limited scope panels.

Initial Recommendation 11: Training on Limited Scope Legal Assistance for LRISs

Request that the Program Development Unit of the Office of Legal Services, Access & Fairness include training about limited scope services as part of its curriculum for future LRIS trainings.

Recognizing the economic realities and changing environment facing LRIS organizations, it is important for the State Bar of California to work with services to develop successful systems and models for limited scope panel administration. It may be that the best methods will vary from county to county; some services may decide to have one “coaching” panel, whereas others may incorporate coaching options within their existing subject matter panels. This information should be shared widely to ensure that services can take advantage of successful models developed throughout the state and can remain financially viable by taking advantage of increased numbers of consumers who would otherwise forego legal assistance. LRIS Regulations should also be reviewed to determine if any changes would be necessary or desirable to facilitate the expansion of LRIS involvement with effective limited scope legal assistance.

The Committee believes that the addition of effective limited scope panels will increase the number of consumers willing to access services through LRIS organizations. Further, many services, especially those in larger metropolitan areas, should be encouraged to coordinate limited scope service panels with the expanding number of court-based self-help centers which already serve this client base. Many of these self-help centers want to have the ability to refer individuals needing representation for a single court hearing or for other discrete tasks; thus, the collaborative effort would further the objectives of both LRISs and court-based self-help centers.

Conclusion on LRIS Issues

Despite the administrative and economic barriers facing LRIS organizations, most have expressed a desire to expand their limited scope legal services. During a recent LRIS roundtable event, providers indicated they believed it was an area where they expected significant growth, and believed it was important for LRIS groups to be in the forefront. Assuming that appropriate technical assistance can be provided through the State Bar, the Committee anticipates that LRIS organizations will expand their limited scope legal services.

Resolution of the malpractice insurance issues discussed earlier will also address concerns raised by LRIS representatives, who seek to ensure that lawyers will join new panels. Establishing such panels, especially to provide limited “coaching” services, will not only serve consumers, but will allow programs to ensure that people calling for brief advice can receive consistent services from a single attorney.



PART V. CONCLUSION

Now is the time to address the issues of limited scope representation in a coordinated way, because there are so many developments, so many different groups – both bench and bar – considering related issues, and the lack of available funding for full representation is creating a larger gap between the need and the availability of legal assistance.

Limited scope representation is already a reality in the legal marketplace. It is driven by consumer demand, court overcrowding, and the increasing cost of full service representation. It is growing in every area of the law in which the consumer of legal services interacts directly with the legal system. Within the realities of the current legal system, it is a critical means of increasing legal access and serving a population which is currently unserved or underserved.

There is a population of attorneys who are already offering these services, and an even larger one that would do so if it felt the State Bar supported their efforts. The issues raised are real, compelling and go to the very heart of an attorney's role. We hope the State Bar and the Judicial Council will take advantage of this unique opportunity to increase access to justice by assisting in the development of forms, standards and guidelines to encourage the availability of limited scope legal services, and to use their position to work with the other groups whose interests are affected.



**REPORT ON
LIMITED SCOPE LEGAL ASSISTANCE
WITH INITIAL RECOMMENDATIONS**

Appendix

A. LIST OF MEMBERS
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B. INFORMATION ON THE ACCESS TO JUSTICE COMMISSION

California Commission on ACCESS TO JUSTICE

The broad-based California Commission on Access to Justice is dedicated to finding long-term solutions to the chronic lack of representation available for poor and moderate income Californians. The Access Commission's composition is one of its key strengths. Because improving the justice system and working to achieve equal access to that system is a societal responsibility and not an obligation of the legal profession alone, the Commission includes members of the civic, business, labor, education and religious communities.

The Commission is pursuing long-term strategies designed to make significant progress toward the goal of improving access to justice, including developing cooperative efforts among judiciary, local bar associations, legal services providers and the broader community. The Commission is seeking both new financial resources to expand the availability of legal services advocates and pro bono attorneys as well as systemic improvements that will make the law more accessible to the poor, the near-poor and those of moderate means.

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California League of Women Voters

Vacant

California Chamber of Commerce

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C. SUMMARY OF INPUT RECEIVED BY LIMITED REPRESENTATION COMMITTEE FROM FOCUS GROUPS, INTERVIEWS, AND OTHER PROCESSES

The following is a summary of input received by the Limited Representation Committee from three different focus groups held in Los Angeles, San Francisco, and Contra Costa County, a Lawyer Referral Service Roundtable, held jointly in Los Angeles and San Francisco, discussions with judges and lawyers from rural settings, and one-on-one interviews with consumers of “limited scope” or “unbundled” legal services.

Input was obtained from ethics experts, insurance experts, judges, court commissioners, family law facilitators, attorneys from legal services programs, bar leaders, LRS staff, and private attorneys specializing in family law, some of whom favored unbundling, and some who did not.

Introductory Comments

Public service: All participants at one focus group felt that offering limited or unbundled legal services was a public service which increased the availability of legal representation to a population which is otherwise unserved or underserved. They perceived that their efforts to offer these services are hindered or restricted by policies, practices and case law which evolved under a full service representation model and which do not readily translate to an unbundled model. Case law was viewed as particularly troublesome.

Some attorneys indicated that they do a lot of this and feel quite comfortable with it. They believe the system should acknowledge its existence and set guidelines for getting in and out of a case, and allow adults freedom to contract.

Attorneys have been unbundling for years, particularly in the areas of bankruptcy and family law. Even providing a second opinion is unbundling. In criminal law, there are stand-by attorneys and advisory counsel, appointed to assist a party who chooses self-representation.

Courts promote unbundling by appointing counsel for limited purposes, e.g., paternity, contempt.

People want and need unbundled services.

There was strong support for a Court Rule or Court Form allowing notice of limited appearance and service on all parties.

Problems arise when organizations can't find attorneys who will unbundle, so they can refer people to them. If the local nonprofit agency conflicts out opposing parties, there is no one available to help those conflicted out. There are many defaults because people can't afford an attorney; and people indicated they believed it is terrible to have a custody order by default. If you don't have representation, things go wrong.

Regarding insurance, there is actually a long claims history for unbundling, since it has been done in bankruptcy, corporate, etc., for a long time.

Lawyer referral services have been connecting consumers with unbundling attorneys, but on an informal basis. Consumers have been using LRS's as a way to get unbundled services, but often come into conflict with an LRS which uses the 1-2 hour consultation as a marketing tool. Formalizing unbundled services can therefore be of great value to the consumer, the LRS, and the attorney.

The need for and prevalence of unbundling seems to be more of an urban phenomenon. Attorneys in rural areas tend to charge less, and individuals may therefore be able to afford full representation. Also, attorneys in rural areas seemed more reluctant to unbundle, partly because of concern about reputation with the judges and with the public.

Perceived Barriers to "Unbundling" or "Limited Scope Legal Services"

The practice of some judicial officers to expand the scope of the representation beyond that contracted between the client and attorney is perceived as a serious barrier. When the scope is expanded, attorneys are required to represent the client on issues for which they may not be prepared. Expectations of judicial officers can drag things beyond formal hearing, require an attorney to pursue next steps, prepare order after hearing, or similar work that the attorney may or may not be paid for.

Lack of specific carrier approval for the practice: While many reported that their carriers have indicated they will cover these practices, they would prefer to see a more institutionalized approval from the carriers.

Most of these contacts are one-time only, and the client's motivation is to reduce cost. It defeats the purpose of offering these services if the time is spent going over lengthy explanations or if lengthy engagement or retainer agreements are required.

Serious objections were raised to requiring attorneys to put their names on pleadings if they are not the attorney of record.

- There is concern that a rule requiring disclosure of anyone assisting in drafting court forms might make them liable for the content or be brought into the case, thus reducing the likelihood that attorneys would volunteer to perform this valuable service.
- "When I draft a pleading for a client it is his declaration, not mine, and I do it differently. My name means something at court, and I don't want it to appear on documents for which someone else is responsible."
- "If I put my name on a pleading that someone else files, I don't know whether it will be altered before it hits the court file."
- "I have an obligation to independently investigate the factual basis for documents I prepare on behalf of a client. If a client drafts a declaration and I suggest changes to make it more effective, it defeats the purpose if I have to conduct an independent investigation or risk violating my obligation. Putting my name on the document implies that I must do so."
- Some commented that disclosure of involvement if they do not become attorney of record is an absolute breach of confidentiality and they wouldn't consider it.
- "Disclosure requirements will make attorneys reluctant to participate in pro per clinics assisting litigants in preparing their paperwork."

Different judges treat unbundling differently, sometimes even on the same case; one judge will allow it, but a different judge won't.

Client confusion regarding scope: The attorney has to constantly remind the client of limited representation.

Attorneys resist doing unbundling because they don't feel they can competently do one issue without being involved with the entire case.

Biggest challenge is having opposing counsel understand it. They, like the clients, want more information. Often, attorneys must provide opposing counsel with copies of 502. Must educate the courts, clients, and other counsel.

Concerns about the Practice of "Unbundling" or Limited Scope Legal Services"

There should be a level playing field for opposing party in an unbundled situation. If one side had known the other side had an attorney, instead of learning of it when, all of a sudden, an attorney appeared at a court hearing, they might have brought one too.

Confusion. If opposing counsel has negotiated with an attorney who is all of a sudden out of a case, it is a waste of their time, confusing, etc.

Attorneys may use unbundling as a ploy to avoid service. One pending case, where judge will soon rule, involved opposing counsel who didn't announce at the outset that they were doing unbundling. Then the opposing counsel stopped accepting service in a way that prejudiced the other party.

Chain of Unbundled attorneys: Problems arise when one attorney has handled part of a case, then a client calls LRS to get a second unbundled attorney; issue of sharing fees with prior attorney or issue of conflict.

Attorneys are asked to come in part-way through a case. Legal services programs often get pulled into the middle of a case – would love some procedure where they can show that they had limited engagement, and therefore help avoid malpractice exposure for the earlier part of a case, and keep them from having to avoid taking a case at all.

Some believed that unbundling is impossible, since issues are so intertwined. It may be impossible to separate the issues, such as trying to do custody and visitation only, but not property or support. It can't be done because visitation impacts support, since the amount of time spent with a child will impact the amount of support required. Even though a hearing or motion may be discrete, many implications are raised. For example, a domestic violence temporary restraining order raises custody presumptions that must be dealt with at further hearings. There are no discrete issues, but rather discrete tasks.

An oral hearing may not be of value if a pro per is unable to explain it in court, which leads to confusion, delay and judicial frustration.

A concern was raised about the duties of attorneys to the court. If the attorney ghostwrites and knows the litigant is lying, is there a duty to tell the court?

Suggested Ways to Address Limited Representation Issues

Encourage bifurcation of limited issues where an attorney is of record for part of the case.

Insurance: Insurance representatives said there had not yet been a claim concerning unbundling. The insurance industry would be more supportive if there were 1) a definition of unbundling and clarity about what needs to be done; and 2) attorneys who follow routine procedures.

Set up systems for inexperienced attorneys to be mentored by more experienced attorneys.

Consider advisory counsel in criminal law as a model.

Initial briefing of the client is critical. Good briefing of the client at the outset, as well as ongoing disclosure is very important. Attorneys must also brief clients as the attorney finishes his or her work, so that the client knows what to expect. The court's perception is that it is better than litigants who are completely self-represented.

Good retainer agreement: Have a well-designed contract, requiring that the client must check a box for each service they WANT, rather than leaving services to be "implied."

Protection from judges: Since there is uncertainty about whether judges will allow an attorney off the case, some policy should be pursued that would clarify the procedures for judges in unbundled cases. One way to address this concern is to educate the bench on the benefits and practice of limited scope representation.

Help with individual appearances:

- Self-help centers would like to be able to refer customers to attorneys offering low-income services such as court appearances for those whose papers are prepared by free services.
- Consumers also want help with individual appearances, especially in family law where the emotion that is involved can harm their ability to explain themselves in a calm, rational manner.

Legal Services could increase the recruitment of *pro bono* attorneys if they could offer clear unbundling opportunities.

Law schools should incorporate unbundling in their courses.

An educational component is needed for lawyers regarding their duties, because there is a gap in understanding amongst lawyers; many local bar leaders don't know what unbundling is.

Prepare an educational brochure for consumers.

Leveling the playing field: Australia federalized the family law system. When first papers are filed, each party must do an orientation program which includes issues, the law and assistance options.

Address prepaid plans, including ways to address the issue of master contracts with the insured, giving attorneys less lee-way in the relationship with the client.

Educating attorneys about ways to offer unbundled services in a competent, ethical manner can also be valuable for all attorneys. There is much concern about what attorneys charge and what consumers get for those fees, and using the models for clear communication developed for unbundling can improve all attorney-client relationships.

Miscellaneous Comments

Litigation has changed over the years. The ideal situation would be one in which lawyers fully represent each side, but that is just not the case. Courts are now doing administrative work rather than judicial, it seems, when acting as a moderator. The reality is that courts should be helping people through the process, and so should encourage unbundling to the extent that it gets people help they wouldn't otherwise have.

Judges take a more active role because of the lack of attorneys; judges ask more questions.

Pension plans are often joined in family law cases, where the plan attorneys become of record, but no one ever sees/hears from them, requires their attendance, etc.

If the party signs and files something, the party has to stand behind the document, regardless of who prepared it.

Often, a case will start out unbundled and end up full service.

The federal court has lawyers volunteer to be early neutral evaluators, a type of unbundled services.

If attorneys are not willing to offer unbundled legal services, unscrupulous paralegals and document assistants abound, doing bad work and overcharging consumers.

Requiring attorneys to take the risk that the judge won't let them off the case is similar to the risk they take with any case. If a client stops paying, or cannot be reached, the court will still not let the attorney withdraw if it is close to trial or might otherwise prejudice the client. This should not be a deterrent to people willing to take on cases, particularly if the sample steps and materials, as well as a proposed new limited appearance form is adopted.

D. REFERENCES ON LIMITED SCOPE LEGAL ASSISTANCE

This brief list of resources is designed to provide the reader with easy reference to some of the primary sources of information relied only the committee in preparing this preliminary report. More complete information is available at the following websites:

- <http://www.unbundledlaw.org>, containing information for a unbundling conference in Maryland in 2000, “ The changing face of legal practice: Unbundled legal services”. The website includes a comprehensive bibliography by Forrest “Woody” Mosten located under “Thinking about Unbundling”.
- <http://www.abanet.org/legalservices/delivery.html>, containing a wealth of references to resources on pro se and unbundling.

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Mosten, Forrest S. (2000). *Unbundling Legal Services: How to Deliver Legal Services a la Carte for Improved Service and Profits*. Chicago: ABA Publishing
[To order, go to www.MostenMediation.com.]

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